

THE U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES  
PUBLIC HEALTH SERVICE  
CENTERS FOR DISEASE CONTROL AND PREVENTION  
NATIONAL INSTITUTE FOR OCCUPATIONAL SAFETY AND HEALTH

convenes the

ADVISORY BOARD ON  
RADIATION AND WORKER HEALTH

VOLUME II

The verbatim transcript of the Meeting of the  
Advisory Board on Radiation and Worker Health held  
at the Washington Court Hotel, Washington, D.C.,  
on Thursday, February 14, 2002.

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P R O C E E D I N G S

9:00 a.m.

1  
2  
3           **DR. ZIEMER:** Good morning again, everyone.  
4 We'll resume deliberations of the Advisory Board  
5 on Radiation and Worker Health.

6           (Comment off the record)

7           **DR. ZIEMER:** For members of the public,  
8 again we remind you that if you wish to make  
9 public comment during the meeting today, there is  
10 a sign-up sheet in the foyer or the entryway.  
11 Please sign up.

12           Also, those members of the public who wish  
13 to have copies of the minutes of this meeting,  
14 there is a sheet for signing up to make such a  
15 request for those minutes.

16           On our agendas, as distributed and as  
17 published, we always have a footnote that says  
18 agenda items are subject to change as priorities  
19 dictate. And based on that footnote, I will  
20 exercise the Chair's prerogative to rearrange the  
21 schedule somewhat.

22           We have at the front end here some  
23 administrative housekeeping things that we want  
24 to take care of, and then it would seem  
25 appropriate to also handle the Board work

1 schedule items at that time. So we'll move the  
2 10:30 item, Board work schedule. We'll move that  
3 up and do that immediately following the  
4 administrative housekeeping things. That will  
5 allow us, then, basically the rest of the morning  
6 to work on the development of the Board's  
7 comments relating to the dose reconstruction  
8 rule.

9 So without objection, we'll make that  
10 rearrangement of the morning agenda.

11 There will also be time for public comment.  
12 And depending on how far we get this morning, we  
13 will then take a look at the afternoon agenda.

14 So let us begin with these housekeeping  
15 items, and Cori, if you will come at this time  
16 and take care of the administrative housekeeping  
17 matters, and then we'll -- Larry will join us  
18 with some additional materials.

19 **MS. HOMER:** Thank you.

20 Good morning, ladies and gentlemen. I just  
21 wanted to update you on your salary and travel  
22 pay issues. I wanted to let you know that your  
23 salary should be direct deposited into your  
24 accounts tomorrow. I don't have in front of me  
25 the number of days you'll be paid for. If you

1 have any questions on that you can just give me a  
2 call. It will be less taxes. And if you have  
3 forwarded your voucher information to us, myself  
4 or Nichole, then it's either being worked on or  
5 it's been signed and is going to be reimbursed.

6 I do want to ask if any of you have any  
7 questions at all about how you're paid, how  
8 you're reimbursed, anything about your travel  
9 issues, per diem, how that's paid?

10 (No response)

11 **MS. HOMER:** I know some folks have asked  
12 about per diem for travel.

13 **MS. MUNN:** Cori, will we be getting some  
14 sort of document in the mail --

15 **UNIDENTIFIED:** Use your mike, Wanda.

16 **MS. MUNN:** Will we be receiving some sort of  
17 written information about itemization of our per  
18 diem and travel funds?

19 **MS. HOMER:** That will come on your travel  
20 voucher. When that comes to you, for those of  
21 you who have seen one or have signed one, your  
22 voucher will come to you for signature and  
23 dating.

24 **MS. MUNN:** Okay.

25 **MS. HOMER:** And if you have any questions at

1 that time, looking it over, you can call myself  
2 or Nichole on that. You will also be getting, as  
3 soon as I have it, your earnings and leave  
4 statement for salary, and that will tell you how  
5 much was deposited into your account. If you  
6 have not received that in your account, please  
7 call me as soon as you know. That way I can go  
8 back and check when it was paid, what day it was  
9 supposed to have been deposited, and we can get  
10 that taken care of as quickly as possible.

11 Also, for the time you spent reviewing the  
12 technical guidelines, if you could let Larry know  
13 how much time you spent.

14 And any other questions?

15 **DR. DEHART:** And the time on the phone call?

16 **MS. HOMER:** Yes, the time on the phone call  
17 as well.

18 I guess that'll be it.

19 **DR. ZIEMER:** Okay. Larry, you have  
20 additional items?

21 **MR. ELLIOTT:** Yes. Let's do it the way we  
22 did last meeting. If you'll just jot me a note  
23 with the number of hours of prep time, then I  
24 sign off on that note and hand it over to Cori to  
25 take care of your salary for prep time for the

1           teleconference. And we know what the  
2           teleconference was; you'll get that covered. And  
3           then your preparation time for yesterday and  
4           today's meeting.

5           I think there was one question, and I'm not  
6           sure everybody got an answer to. That was how do  
7           I know -- this came up yesterday -- how do I know  
8           when my salary gets deposited, and how do I know  
9           when my travel voucher or my travel expense gets  
10          deposited to my account? When you sign off on  
11          your travel voucher, make note of -- and you  
12          should get a copy of this for your own records --  
13          but make note of what that dollar value is, and  
14          that's what will be actually added to your  
15          account for your travel. But your salary will  
16          not be X number of days times your salary; it'll  
17          be minus the tax. So that'll be a figure that we  
18          can't predict for you.

19          The other thing, under the Board work  
20          schedule, we -- as Dr. Ziemer used his  
21          prerogative to move this up, we need to talk  
22          about the -- we tentatively have March 25th and  
23          26th set aside in your calendars for the next  
24          meeting. What work do we have for that meeting,  
25          and do we need to have that meeting? Should we

1 postpone that meeting? I think that's a topic of  
2 this agenda item at this point in time.

3 It's very unlikely that we would have the  
4 Special Exposure Cohort procedures ready for  
5 review in March, at that time frame. It's just  
6 too hard for me to predict right now. The only  
7 thing I would see that the Board could work on in  
8 March would be to come together to discuss or to  
9 decide how to conduct its review of dose  
10 reconstructions.

11 I would suggest to you that the review of  
12 dose reconstructions would probably not start,  
13 however, until early fall; late, late summer,  
14 early fall. I think it's important for us to  
15 build a completed case load of those for you to  
16 sample from. I don't think you want to start out  
17 looking at the first 100 or so, or first ten that  
18 come out of the gate. But I think you need to  
19 come to grips and decide, discuss and decide how  
20 you want to approach setting up a review of dose  
21 reconstructions.

22 I know there were several other things that  
23 were proposed yesterday for presentations to the  
24 Board, and we certainly are willing to  
25 accommodate those interests. But I would ask

1 that you consider our preparation for those kind  
2 of presentations at this point in time takes  
3 staff away from completing some of their  
4 necessary work that we have in order to try to  
5 achieve our goals. And we can certainly get to  
6 those things later on, but that would be just my  
7 suggestion for your consideration.

8 So I'll turn it over to the Chair, and you  
9 should discuss how you want to proceed.

10 **DR. ZIEMER:** First of all, let me suggest  
11 something here, and then we can entertain other  
12 comments.

13 It's clear that the staff has an immediate  
14 job of getting the responses to the comments for  
15 the two rule-makings and getting the rule-making  
16 out the door. I think you were shooting for an  
17 April 1st to get that out your door and into the  
18 system. It would seem to me that it would be in  
19 the interest of the NIOSH staff if we did not  
20 have a meeting in March that would detract from  
21 their ability to get that immediate job done.

22 The pressing issues for this Board were the  
23 comments on Part 81 and 82, which we hope to  
24 complete today, so that I don't see a compelling  
25 reason to meet in March, but there may be a

1 compelling reason not to meet in March.

2 Personal views? Let's get other comments.

3 Yes, James.

4 **DR. MELIUS:** What are you proposing, then,  
5 as the next meeting, just roughly?

6 **DR. ZIEMER:** Then it would be an April time  
7 frame. Did we collect the April -- you have the  
8 April possibilities there?

9 **MS. HOMER:** Looks like in April the second  
10 week. Dr. Anderson is only available on the  
11 12th. Everybody else seems to be available all  
12 week. The third week looks good. That would be  
13 the 14th through the 20th.

14 **DR. DEHART:** I'm out that total week.

15 **DR. ANDERSON:** Yeah, I've got a wedding at  
16 the end of the week -- not mine.

17 **DR. ROESSLER:** Cori, I must not have put it  
18 on, but I'm out the week of -- I'm out April 9th  
19 through 11th.

20 **MS. HOMER:** 9th through 11th? Okay.

21 **DR. ROESSLER:** And then in addition, on my  
22 agenda, I changed an EPA advisory committee  
23 meeting from March to April 23rd to 25<sup>th</sup>. But you  
24 can't get everybody, probably.

25 **MS. HOMER:** Well, how does the 22nd and 23rd

1 or 23rd and 24th sound?

2 **DR. ANDERSON:** That's the EIS conference at  
3 CDC that week. For me, anyway, and I would  
4 assume --

5 **DR. ZIEMER:** I'm out the 23rd. Actually  
6 I'll be in Los Alamos on the 23rd. Maybe we  
7 could meet out there.

8 **MR. ESPINOSA:** Sounds good to me.

9 **DR. ZIEMER:** Roy, did you say you were out  
10 the week of the 15th?

11 **DR. DEHART:** Actually, I'm out -- well,  
12 certainly from the 13th through the 18th.  
13 Aerospace medical meeting.

14 **DR. ZIEMER:** Was the week of the 8th a  
15 possibility?

16 **DR. ROESSLER:** Well, the 10th and 11<sup>th</sup>,  
17 that's the NCRP meeting.

18 **DR. ZIEMER:** That's right here, so if we met  
19 the 8th and the 9th, why you could just go right  
20 over there, right?

21 **DR. ROESSLER:** Sure.

22 **DR. ANDERSON:** Yeah, I have a conflict on --  
23 I think, Jim, you're on the Rocky Flats --

24 **DR. MELIUS:** Yeah, we both --

25 **DR. ZIEMER:** Okay. Is the 11th and 12th of

1 April out, also?

2 UNIDENTIFIED: The 12th is okay, but not the  
3 11th.

4 DR. ZIEMER: What about -- I'm out the 4th  
5 and 5th, but what about the 1st through 3<sup>rd</sup>? Any  
6 problems there?

7 UNIDENTIFIED: For which month?

8 MR. ELLIOTT: That's too close.

9 DR. MELIUS: We've already committed -- all  
10 of us have set aside those other two. To move it  
11 a week is hardly worth it.

12 DR. ZIEMER: Oh, right, that doesn't help  
13 much.

14 DR. ANDERSON: May 2 or 3?

15 MS. HOMER: First week of May looks open.

16 DR. ZIEMER: Any conflicts beginning April  
17 29 through May 3<sup>rd</sup>?

18 (No responses)

19 DR. ZIEMER: Hey, looks good, doesn't it?

20 DR. ANDERSON: I have a conflict Monday and  
21 Tuesday, but --

22 DR. ZIEMER: That's the 29th and 30th.

23 DR. ANDERSON: Yeah. So 1, 2, or 3 is fine.

24 DR. ZIEMER: Anyone with a conflict May 1st  
25 through 3<sup>rd</sup>?

1 (No response)

2 **DR. ZIEMER:** Shall we try for either 1st and  
3 2nd, or 2nd and 3rd?

4 **UNIDENTIFIED:** I'm sorry?

5 **DR. ZIEMER:** 1st and 2nd, or 2nd and 3rd,  
6 depending on availability of facilities and so  
7 on? Does that sound --

8 **MS. HOMER:** That's good.

9 **DR. ZIEMER:** Okay, let's all pencil that in.  
10 Block off 1st through 3rd until we get it  
11 finalized.

12 Any reason we shouldn't just meet here again  
13 in D.C.?

14 (No response)

15 **DR. ZIEMER:** Sounds okay.

16 **MS. HOMER:** I'll check on the availability  
17 of the hotels.

18 **DR. ZIEMER:** Cherry blossoms still out then,  
19 or -- is that on your calendar? Too late.

20 Okay, we have tentative dates, then, blocked  
21 off for that meeting. Now let me make sure, is  
22 everybody agreeable that we should postpone till  
23 then? Is there any that feel that there's  
24 compelling reason to meet in March? I don't want  
25 to preclude that.

1           Yes, Roy, please.

2           **DR. DEHART:** I was just curious. There are  
3 probably some topics that would not need  
4 presentation by the NIOSH group, but where others  
5 from outside could come in. We were hearing  
6 yesterday about a number of dose critical issues  
7 where when it was really -- the paper record was  
8 really checked, it was found not to be adequate.  
9 Could we hear those stories? That's the kind of  
10 information that perhaps wouldn't take so much  
11 time. But again, you see a lot of people sitting  
12 around here that might have to be here in any  
13 case, which would interfere with the staff, I  
14 don't know.

15           **DR. MELIUS:** Yeah, I think along those lines  
16 there's those topics.

17           I think it would be useful to hear a  
18 legislative history or background, particularly  
19 with relationship to Special Exposure Cohorts.  
20 But I think there's other sections that would be  
21 helpful to hear from some of the Congressional  
22 staff. There's David Michaels, there's a lot of  
23 -- somebody can choose who, but sort of a panel  
24 to present to us the legislative background.

25           There's a number of topics related to the

1 IREP model and so forth that we had talked about  
2 at the first meeting, that I think it would be  
3 useful to get a panel together to give us  
4 background on some of the issues related to that.

5 So I don't think it necessarily has to  
6 require the NIOSH staff to spend a lot of time  
7 preparing for us, and that will somewhat depend  
8 on where they are with the various regulations.  
9 But I think getting some of that background  
10 together with information would be good, and  
11 would be a good use of a meeting so that down the  
12 road we're prepared for -- as these issues come  
13 up.

14 **DR. ZIEMER:** Let me ask both Roy and Jim,  
15 are you suggesting that there's an urgency to do  
16 that in March rather than, say, April? Certainly  
17 that could be part of the April thing. I think  
18 these folks are going to be pretty well tied up  
19 through March anyway, so maybe having that topic  
20 at the April meeting might still be appropriate  
21 to have.

22 **DR. MELIUS:** Yes, that's what I was saying.

23 **DR. DEHART:** That would be fine with me. I  
24 just would like to see some of that information  
25 presented soon.

1           **DR. ZIEMER:** Henry had a comment.

2           **DR. ANDERSON:** Yeah, I would agree. I would  
3 like to hear some of the other background, and  
4 maybe have some of the peer reviewers from the  
5 IREP come in and talk about their -- have more of  
6 a dialogue with them at some point in time.

7           And I think we also probably then need to do  
8 some planning on how are we going to organize to  
9 review -- I've just felt that we're very much in  
10 a reactive mode, and to wait only until we have  
11 something from NIOSH to present and review, we  
12 may want to think about what are some of the more  
13 proactive things that might be something that we  
14 would carry on between several meetings.

15           But April, in order to do that -- we could  
16 probably put that -- I just don't want to get us  
17 rushed again, because next will be coming the  
18 NIOSH responses to the rule package, and changes  
19 there that we may want to discuss as well. This  
20 might be a catch-up meeting for us to look at  
21 things that are good for us, but I don't feel  
22 strongly about not postponing. I just don't want  
23 to get caught down the line, that we spend all  
24 our time reacting on a rapid basis rather than  
25 kind of beginning to plan a process for the long

1 term.

2 **DR. ZIEMER:** Okay, good comment. Thank you.  
3 Others? Wanda.

4 **MS. MUNN:** I agree fairly strongly with what  
5 Henry had to say.

6 I think it may take us a little time to get  
7 our thoughts in order with respect to how we do  
8 want to approach these evaluations we're going to  
9 undertake. I think we ought to give the NIOSH  
10 staff all the space they need in March to do  
11 these ugly things they have to do to try to make  
12 their deadline. By the same token, I'm  
13 uncomfortable with putting our next meeting off  
14 too far. I think it may be to our detriment to  
15 have too much time between our meetings, even  
16 though regularity, obviously with a group like  
17 this, is going to be impossible.

18 But there are several items -- I shouldn't  
19 say several -- there's at least one item that I  
20 would like to discuss with the group at some  
21 juncture before we get too far down the road.  
22 It's already behind us and nothing that can be  
23 done about it, but there is some language in the  
24 law that establishes this entire procedure, which  
25 is -- there's not much of it, but what's there is

1 misleading, to say the least, and inaccurate is  
2 the kindest word one can say about it.

3 For a group like this to not comment on  
4 that, I think would be inappropriate, and at some  
5 juncture I'd like to discuss that with the Board.  
6 But -- and would like that not to be long after  
7 all of the disbursements have begun to take  
8 place.

9 **DR. ZIEMER:** Thank you. Wanda, let me ask.  
10 However, are you comfortable with the meeting  
11 date that we're talking about, or are you urging  
12 us to meet again in March? You said that you  
13 wanted to give them space, so I took that to mean  
14 you're okay with this proposed meeting date that  
15 we talked about.

16 **MS. MUNN:** I think we should just throw up  
17 our hands with respect to March.

18 **DR. ZIEMER:** Yes, okay.

19 **MS. MUNN:** It looks impossible to me.

20 **DR. ZIEMER:** Thank you.

21 **MS. MUNN:** And my preference would have been  
22 April, but that also looks impossible at this  
23 juncture.

24 **DR. ZIEMER:** Well, we're not too far out of  
25 April, so --

1           **MS. MUNN:** This is true, so May is fine.

2           **DR. ZIEMER:** Thank you.

3           Any other comments as --

4           **DR. ANDERSON:** Do we want to look at some  
5 other dates? By the time we get to May, I think  
6 we're then going to find that June is gone,  
7 because everybody's going to fail. So if we're  
8 going to plan for three or four meetings four to  
9 six weeks apart, we may want to start to look at  
10 some of those dates.

11           **DR. ZIEMER:** Cori, can we distribute the  
12 calendars, or do you want to just have us tell  
13 you what our bad dates are again through May,  
14 June, and on beyond?

15           **MS. HOMER:** Yeah, you have May.

16           **DR. ZIEMER:** Okay. In the packet -- is it  
17 in the packet? There is a tab in the packet  
18 called 2002 year planner. So I think, Cori, if  
19 this is what you want, have each person put their  
20 name on that, and then X out your bad dates. Is  
21 that how we want to do that?

22           **MS. HOMER:** Yes.

23           **DR. MELIUS:** That's how we did it last time.

24           **MS. HOMER:** We did it that way last time.

25           **DR. ZIEMER:** But how far did -- last time we

1 only had through May, so --

2 **MS. HOMER:** Some folks have given me June,  
3 but --

4 **DR. ROESSLER:** But that changes.

5 **UNIDENTIFIED:** It changes.

6 **MS. HOMER:** Yes, it does.

7 **DR. ZIEMER:** Why don't you update that, and  
8 let's -- how far can we go now? Can we take it  
9 on through at least August, and get those dates?  
10 And then turn those in yet today. Thank you.

11 Could we also then ask the staff, as you're  
12 able to begin identifying who might some of these  
13 presenters be -- again, I think there will be  
14 time, but we do have to allow those people time  
15 to schedule things, too. So having a little  
16 advance notice will be important there.

17 Jim.

18 **DR. MELIUS:** Could I make a suggestion that  
19 maybe we set up a -- I don't know if it's a  
20 subcommittee or group, just to work with the  
21 Chair, a couple of people to help choose some of  
22 the people, or we can work with the staff in  
23 terms of coming up with some names and people  
24 from the outside that we might want to come in  
25 for those meetings? That might make it easier,

1           rather than have the staff calling around and --

2           **DR. ZIEMER:** Let me -- Jim, would this work  
3 just as if you know of or have suggestions, just  
4 to turn those over to Larry, and let them try to  
5 put together something? Do you think you need --  
6 do we need a subcommittee, or --

7           **DR. MELIUS:** That would be -- if they want,  
8 prefer that way, that's fine, too.

9           **MR. ELLIOTT:** That would be great. Whatever  
10 your suggestions are, if you can give them to me.  
11 And certainly I've already talked with David  
12 Michaels. I think he would be pleased to accept  
13 an invitation to present on the legislative  
14 background to you. Josh Silverman and I spoke  
15 this morning, and I think DOE would welcome an  
16 invitation to talk about records. But others,  
17 I'm sure there are other people that you know of  
18 you would like to hear from.

19           **DR. MELIUS:** Can I just -- maybe if we can  
20 do that interactively, then, if you could then e-  
21 mail out what you think will be the agenda and  
22 who the speakers would be. Then if someone says,  
23 well, I really think we ought to hear from  
24 someone with this viewpoint or this experience  
25 would be a good addition, or some point, then I

1 think at least we're not getting to the meeting  
2 and saying, well, next meeting we should have  
3 somebody else come in.

4 The other thing I would request maybe for  
5 setting up this meeting, so we don't get to May  
6 and be struggling with a July meeting, because by  
7 that time our calendars will all have changed  
8 also, is if Larry could work with the Chair. And  
9 I think somebody's just going to make a decision  
10 at some point that not everyone can be there, and  
11 maybe make it your -- we'll have someone to blame  
12 besides Larry.

13 **DR. ZIEMER:** I was hoping that wouldn't  
14 happen, but we'll do that. Sure, we'll do that.

15 **DR. MELIUS:** But also, again, if you'd let  
16 us know. There are times we can move meetings if  
17 we're not available, just -- the farther ahead we  
18 can do this, I think the better, that's all.

19 **DR. ZIEMER:** Right, it's sort of the first  
20 thing on the calendar is going to get the  
21 priority in many cases, so right.

22 **DR. MELIUS:** Exactly.

23 **DR. ZIEMER:** Right.

24 Okay, other comments?

25 Thank you, that's very helpful.

1 (No response)

2 **DR. ZIEMER:** Let us now proceed to the  
3 discussion and development of the dose  
4 reconstruction rule comments.

5 We did ask for each of you to give some  
6 thought and maybe jot down some ideas. What I  
7 thought we might do to begin is to prepare a kind  
8 of inventory of the items that we want to  
9 address, just to identify them. We sort of did  
10 this at the end of the session yesterday. But  
11 I've asked Cori to help us by preparing an  
12 overhead; that is, she will prepare it as we make  
13 the inventory.

14 Is this agreeable, to try to identify the  
15 items that we wish to comment on? And then we  
16 can talk about actually developing the formal  
17 comments after we see what it is that's before us  
18 in terms of numbers of items and the subjects.  
19 Is that agreeable, to try to get an inventory  
20 here?

21 Now one of the reasons I'm suggesting we do  
22 this is because I've started an inventory. I  
23 actually have a list of eight items that I put  
24 together, I think based on yesterday's comments.  
25 And so what I thought I would do is identify

1 these, and then we can either delete or add to  
2 them. But most of these -- and these aren't my  
3 ideas. These are ones that I think I heard  
4 yesterday from the Board.

5 For example, the first item would be to move  
6 the paragraph Item J Section 2 (sic), and you can  
7 say move Item J, Section 2, page 50981, to the  
8 body of the rule. This is the one dealing with  
9 the role of this Board. Actually, the whole  
10 paragraph, which is not only the role of the  
11 Board but the general idea of revising, perhaps  
12 the whole thing should move. So maybe to  
13 identify this, move Item J, sentence -- let's say  
14 Item J of the background section to the body of  
15 the rule. We can come back and talk about these,  
16 but let me get the list up here.

17 **MS. HOMER:** Move Item J from background to  
18 where?

19 **DR. ZIEMER:** To the body of the rule. I'm  
20 not sure where that would go, actually, but --

21 **DR. DEHART:** It's page 50981.

22 **DR. ZIEMER:** Yeah, page 50981 is where that  
23 is. That's where this section is.

24 The second item is Section 82.10, paragraph  
25 (j), so 82.10(j), clarify the use of the term

1 "validated."

2 **DR. ROESSLER:** What page is that on?

3 **MS. NEWSOM:** 50988.

4 **DR. ZIEMER:** Third item, clarify the steps  
5 and time line for -- oh, I'm sorry, I should have  
6 given you the section first. That's all right,  
7 put it in the next -- that'll be Section  
8 82.10(m), (n), (o). Clarify the steps and time  
9 line for claimant's action on form OCAS-1,  
10 claimant's actions on form OCAS-1.

11 Section 82.14(f)(1), clarify the use -- this  
12 is one I just picked up; we didn't talk about  
13 this. But the title of this uses the word "may,"  
14 and the words used -- use the word "will." There  
15 seems to be a discrepancy, so I'm suggesting a  
16 clarification on the use of "may" and "will."  
17 It's -- let's get the page -- page 50989.

18 If you look at the title of Section 82 --  
19 I'm sorry, I have the wrong one. It's 82.13.  
20 I'm sorry, I gave you the wrong one, 82.13. I  
21 gave you the wrong one there. Just cross out the  
22 (f)(1); it's just 82.13. Look at the title, and  
23 then the sentence right after the title. It  
24 appears to me to be a conflict. We might decide  
25 it isn't, but put it down here for the moment.

1           82.14(f)(1), and this is one that was not  
2 discussed yesterday. But I noticed last evening,  
3 and maybe I'll ask the question, and probably  
4 should direct it to Jim Neton. On the medical  
5 screening with X-rays, are there other medical  
6 screening procedures that use radiation that may  
7 not be X-rays that should be included? Were  
8 there any nuclear medicine procedures or other  
9 imaging modalities, or is it only medical X-rays?

10           **DR. NETON:** There are no other modalities  
11 that I'm aware of as far as nuclear medicine,  
12 screens or something like that, that were  
13 required, occupationally required, in what I  
14 would consider like a surveillance-type program.

15           **DR. ZIEMER:** Therefore only -- so, then, as  
16 far as I'm concerned this can drop out. I was  
17 just raising the question as to whether that was  
18 restrictive in a way that it was not intended, so  
19 I think it can drop out.

20           82.18, this is another one that we did not  
21 discuss, but I picked up last night. It requires  
22 the use of NCRP (sic) models. There's nothing  
23 said about the fact that they should be current  
24 models. Is there a need for clarification? So  
25 right now I've just said to clarify that.

1           **DR. NETON:** Do you mean ICRP models?

2           **DR. ZIEMER:** ICRP; did I say NC? I meant  
3 ICRP models. The statement is that ICRP models  
4 will be used. Do we want to say current ICRP  
5 models or something like that? So that was my  
6 point in raising that.

7           Next item is 82.28(b), clarify the  
8 restriction concerning the availability of the  
9 names of claimants to researchers. Clarify the  
10 restriction concerning the availability of the  
11 names of claimants to researchers.

12           Then the last item on my list is answer the  
13 three questions.

14           Now I'm aware that there is at least one and  
15 possibly two that I simply couldn't remember or  
16 hadn't made a note on, and so -- but some of you  
17 will remember your own items from yesterday to  
18 add to this list. So let me now open it up.

19           I think, Jim, you may have had one that I  
20 simply couldn't remember.

21           **DR. MELIUS:** No, I've forgotten it also.

22           **DR. ZIEMER:** Good, I feel good about that,  
23 then. If you don't remember it --

24           **DR. MELIUS:** I don't.

25           **DR. ZIEMER:** Well, if it comes to you --

1 does anyone remember the great idea Jim had  
2 yesterday?

3 **MS. MURRAY:** I'll check back in my notes  
4 from yesterday and see, because I underline  
5 things that look like --

6 **DR. ZIEMER:** Good, okay. Are there some  
7 others?

8 (No response)

9 **DR. ZIEMER:** Did you have one that I missed  
10 here? Okay, please, Bob.

11 **MR. PRESLEY:** Bob Presley. Yesterday we  
12 came out on 82.16 where it says evaluate and  
13 validate, and I had marked word "validate" on  
14 there. We had some discussion on that. I don't  
15 think that's up there.

16 **DR. ZIEMER:** Item two, Bob.

17 **MR. PRESLEY:** I'm sorry.

18 **DR. ZIEMER:** I think that was the one that  
19 you had raised, clarify the use of the term  
20 "validated" in Section 82 -- is that the right  
21 section? Is there another --

22 **MR. PRESLEY:** 82.16 is the one I marked it  
23 on.

24 **DR. ZIEMER:** Oh, okay. So is there another  
25 one, then?

1           **DR. ANDERSON:** Yes. I think you've caught  
2 it.

3           **DR. ZIEMER:** Yes, that is 82.16.

4           **DR. ANDERSON:** And there was also on --

5           **DR. ZIEMER:** Actually, it looks like it's  
6 82.16. The 82.16 is simply in the sentence.  
7 It's not that --

8           **MR. PRESLEY:** That's right, I'm sorry.

9           **DR. ZIEMER:** It actually is 82.10, but the  
10 sentence just ahead of that ends with the words  
11 82.16, and it makes it look like that's the  
12 reference.

13           So what I'm asking now, we have this list  
14 before us. Are there any things on the list that  
15 you think we should not comment on? Are there  
16 some things that aren't on the list that we  
17 should comment on?

18           **MR. PRESLEY:** Bob Presley again. I had  
19 marked 82.12, that title, will it be possible to  
20 conduct dose reconstruction for all claimants --  
21 for all claims? We had a discussion on that.

22           **DR. MELIUS:** Can I follow up on that? I'm  
23 not sure if this fits as a comment directly on  
24 that, or is an answer to one of the three  
25 questions.

1           But I believe we should comment on the  
2 limits of -- I don't think that the regulations  
3 in what we've heard so far have clarified, at  
4 least for my mind, when NIOSH will not be able to  
5 do an accurate dose reconstruction.

6           Now some of this backs into the whole issue  
7 of Special Exposure Cohorts, because one of our  
8 tasks in the legislation is to advise the  
9 Secretary when they're not able to do an accurate  
10 dose reconstruction, if there are groups of  
11 people for whom they cannot do it. And so it's  
12 hard to -- it may be that the Special Exposure  
13 Cohort regulations, if they come out there, would  
14 specify this.

15           But I think we ought to comment that this is  
16 something that the Board needs to continue to  
17 monitor and work with NIOSH on. I'm just very  
18 uncomfortable with the implication that we're  
19 going to reconstruct every dose. Well, you can  
20 do that, but how accurate will it be, and so  
21 forth. And I think we should say that that's  
22 something the Board needs to continue to follow  
23 and work with NIOSH on.

24           **DR. ZIEMER:** Jim, let me ask this. Are you  
25 suggesting that this might be a sort of general

1 comment as opposed to some change in the rule-  
2 making? In other words, it seems conceivable  
3 that dealing with that in detail might be in the  
4 guidance document as opposed to the rule, but  
5 that perhaps you would wish to have the Board  
6 comment in a general sense as opposed to adding  
7 something to the rule, some detail that spells  
8 out how they're going to make this decision, or -  
9 -

10 **DR. MELIUS:** I think there are options.  
11 Whether -- I can't come up with wording that  
12 could be put in the regulation right now. I  
13 think that's difficult, particularly until  
14 they've done the Special Exposure Cohort. You  
15 can define it by -- from the other side, from the  
16 Special Exposure Cohort side, easier than you can  
17 say when can you not do it in terms of a  
18 regulation.

19 I think it's more likely through the  
20 manuals, the procedures, and so forth that we  
21 would be able to advise them and get  
22 clarification on that. I spent some time last  
23 night going through those sections of the manuals  
24 that we were given, handbooks, and trying to see  
25 if there was adequate information in there, and I

1 was not. I don't believe there is at this point  
2 in time. It is something that is very hard to  
3 define. How do you define when you can't do  
4 something is difficult.

5 But I think it's such a critical point that  
6 we need to comment on it in a general way,  
7 leaving a number of options; that this is  
8 something that would be clarified either in  
9 regulation, in procedure, or as we work with  
10 NIOSH on reviewing the dose reconstructions that  
11 they do. And I would hope that that would be one  
12 focus of our reviews.

13 **DR. ZIEMER:** It appears to me, then, that  
14 that concept might be included as part of our  
15 comments to question one -

16 **DR. MELIUS:** (Nods head)

17 **DR. ZIEMER:** -- which is does the interim  
18 rule make appropriate use of current science for  
19 conducting dose reconstruction, and in that  
20 context to raise this issue. Would that be  
21 agreeable?

22 **DR. MELIUS:** And I also think it pertains --  
23 I think it's question two that talks about the  
24 efficiency of the process --

25 **DR. ZIEMER:** Yes.

1           **DR. MELIUS:** -- because there's also how  
2 much effort do you put into doing this. The more  
3 effort, the greater accuracy or whatever. But it  
4 may be out of proportion to what you gain.

5           **DR. ZIEMER:** So let me ask you to take it  
6 upon yourself to make sure, as we word both  
7 question one and two, that that idea gets  
8 incorporated in an appropriate way, then. Thank  
9 you.

10           Other items?

11           **MS. MUNN:** No, I just wanted to comment on  
12 what Jim had just said.

13           I found last night when I was trying to put  
14 together my comments with respect to the three  
15 items we felt we needed to comment on that  
16 precisely because of the kinds of things you  
17 mentioned, Jim, I found these things overlapping  
18 and not as easy to quantify in terms of response  
19 to number one, response to number two, and  
20 response to number three. So I --

21           **DR. ZIEMER:** They probably aren't mutually  
22 exclusive, yes.

23           **MS. MUNN:** So I wound up with language that  
24 did accommodate several of the things that you  
25 were speaking of; whether in the way you want, I

1 don't know. But I think they probably fall in  
2 the general --

3 **DR. ZIEMER:** We'll hopefully make use of  
4 that in just a little bit, then. Okay.

5 Again, let me ask if there are other items,  
6 then, that we need to identify here, separate  
7 items?

8 (No response)

9 **DR. ZIEMER:** Is there anything on the list  
10 that you would wish just to delete or not  
11 address?

12 (No response)

13 **DR. ZIEMER:** Some of these may turn out to  
14 be as simple as clarify the use of the word  
15 "may."

16 **MS. MURRAY:** Yeah, that one -- let's me see  
17 -- number four, is that about the closing after  
18 60 days? That was one you had brought up  
19 yesterday.

20 **DR. ZIEMER:** No, the closing after 60 days  
21 has to do with the clarification of the steps and  
22 time line, item three. It's the time line thing.

23 **MS. MURRAY:** Okay.

24 **DR. ZIEMER:** That was the 60-day issue.

25 **MS. MURRAY:** I'm still looking.

1           **DR. ZIEMER:** If something else turns up, we  
2 can always come back. I'm not saying this is  
3 restrictive at this point, but it sort of gives  
4 us a road map of where we have to go today to  
5 sort of finish our task.

6           Do I sense that there's general agreement  
7 that this scopes what we have to do?

8           (No response)

9           **DR. ZIEMER:** Now as we look at this list, a  
10 number of these items are very straightforward  
11 and simply require a sentence or two. To move  
12 Item J, for example, and we can get wording  
13 that's similar to what we said last time. We  
14 don't need to spend a lot of time here, but we'll  
15 have one of us work up that wording.

16           Clarify the use of the term "validated,"  
17 clarify steps and time line for claimants,  
18 clarify use of the word "may." I guess almost  
19 everything, one through six, is probably fairly  
20 straightforward, a single sentence or two,  
21 probably, which means we would focus most of our  
22 attention on the three questions.

23           It occurs to me, though, there was an  
24 additional question -- maybe Dr. Roessler doesn't  
25 wish to raise it, but Gen, didn't you have -- you

1 were going to talk -- or you talked to me about  
2 the use of the term "precision and accuracy." Is  
3 that something you don't wish to raise, or do  
4 wish to raise?

5 **DR. ROESSLER:** I think I have to now.

6 (Laughter)

7 **DR. ROESSLER:** I will raise it, since you  
8 brought it up. It's not --

9 **DR. ZIEMER:** Well, I thought maybe you were  
10 just being shy.

11 **DR. ROESSLER:** It's not in the rule -- well,  
12 it's not in the part we were looking at. It's on  
13 page 50978, in the second question that we are  
14 going to deal with. And it's the use of the -

15 **DR. ZIEMER:** Part of the question itself, is  
16 it not?

17 **DR. ROESSLER:** It's part of the question  
18 itself, and it's the word "precision." And I  
19 guess before I talked this morning to a number of  
20 people, I would have thought that based on  
21 Larry's comments that they are going to try and  
22 produce the most accurate results possible; that  
23 should be accuracy. But now I'm not sure what  
24 the word should be. I think perhaps as we deal  
25 with that question we should look at the wording

1 on it.

2 **DR. ZIEMER:** Okay, thank you.

3 Wanda.

4 **MS. MUNN:** That was one of the things I  
5 addressed in my generalized wording, and what I  
6 said was the Board recognizes that if efficient  
7 and expeditious consideration of claims is to be  
8 made, absolute precision is not possible. And  
9 that's, I think, a response to the question they  
10 wanted answered, and incorporates the recognition  
11 that the further down the precise road you go,  
12 the more time and money are being incorporated in  
13 the process.

14 **DR. ZIEMER:** So perhaps the issue will  
15 emerge in an appropriate way as we word the  
16 answer to the question. Okay.

17 Now let me ask how many of you, on your own,  
18 prepared sets of wording such as Wanda has done?

19 Wanda, you have some words. Robert, you  
20 have some. Gen has some. Three sets of wording,  
21 okay.

22 Wanda, did you prepare words for all three  
23 questions?

24 **MS. MUNN:** Yes, I did, but I did not number  
25 them one, two, three. They're all sort of --

1           **DR. ZIEMER:** 1A, 1B, 1C, I guess.

2           **MS. MUNN:** Well, as Jim pointed out, some of  
3 them --

4           **DR. ZIEMER:** Okay. But you've tried to  
5 address them all?

6           **MS. MUNN:** Yes.

7           **DR. ZIEMER:** Robert, how about you?

8           **MR. PRESLEY:** Yes.

9           **DR. ZIEMER:** Gen?

10          **DR. ROESSLER:** I mostly have two comments on  
11 two, the second question.

12          **DR. ZIEMER:** And -- the first and the  
13 second, or --

14          **DR. ROESSLER:** No, just --

15          **DR. ZIEMER:** Oh, just comments on number  
16 two, okay. I thought you meant -

17          **DR. ROESSLER:** I couldn't think of really  
18 anything to do with the first, other than using  
19 part of what we did last time.

20          **DR. ZIEMER:** Okay. Now let me ask the group  
21 if you would like to work on these three  
22 questions as a committee of the whole, or we can  
23 have each individual get their words up for us as  
24 straw men to look at, or do you prefer to break  
25 into smaller groups?

1           **DR. MELIUS:** I think the committee as a  
2 whole would be better.

3           **DR. ZIEMER:** Okay, we can do that.

4           Now I'm trying to see what the most  
5 expeditious way to do this would be. I have a -  
6 Okay, go ahead. Henry's got a suggestion.

7           **DR. ANDERSON:** I was going to say, since I  
8 raised the availability of names, do we want to  
9 just leave it kind of generic like this? Or do  
10 you want us to propose specific language, because  
11 there are some --

12           **DR. ZIEMER:** No, I want some specific  
13 language on each of these, and --

14           **DR. ANDERSON:** Because I have some specific  
15 correction or additional language that would  
16 clarify six that I -

17           **DR. ZIEMER:** Right, If we have that, then  
18 we'll do that.

19           Let me suggest the following, and we'll take  
20 a -- we're going to take a break. But I'll ask  
21 each of those who have prepared something, if we  
22 can get it -- is it readable if we photocopied it  
23 onto a transparency?

24           **MS. MUNN:** Just barely.

25           **DR. ZIEMER:** Just barely. Well, the

1 alternative would be to take a transparency  
2 during the break and have you write on the  
3 transparency.

4 **MS. MUNN:** Oh, please, do take this and make  
5 a transparency of it.

6 **DR. ZIEMER:** Let me ask Cori -- is Cori  
7 still here? Well, we'll take a break and find  
8 out during the break, because maybe what we can  
9 do is take that, do a blow-up of it and then a  
10 transparency, and get it up before us so we can  
11 see the words. And if we can do that on the  
12 others, either hand-write them onto a  
13 transparency, or we'll photocopy them. And then  
14 after the break then we can work on the words.

15 Is that agreeable? Okay, let's take a  
16 15-minute break.

17 (Whereupon, a recess was taken from  
18 9:53 to 10:25 a.m.)

19 - - -

20 **DR. ZIEMER:** I'd like to call us back to  
21 order.

22 We're going to work here a little bit in  
23 real time. Cori has already typed in some  
24 sentences which will be straw men for the general  
25 big three questions. We also have some words for

1 the sort of brief sentence ones that we talked  
2 about. And I think right now these are being  
3 numbered in the order that we had them on the  
4 overhead, the first one being the moving of  
5 Section J from the background or the preamble of  
6 the rule-making, moving that into the body of the  
7 rule-making. And those words are being put up  
8 there even as we speak.

9 I might ask you to open your books to 50981,  
10 Section J, because as I proposed the wording on  
11 this it would basically be to move the whole  
12 section, which includes the sentence about the  
13 public petitioning for changes in the rule-  
14 making, as well as the Board's review of proposed  
15 changes in the rule-making.

16 The words here now would say that the Board  
17 recommends that Section J, concerning changes to  
18 scientific elements underlying the dose  
19 reconstruction process, be moved to the main body  
20 of the rule, and then it should say so as -- the  
21 main body of the rule so as to formalize the  
22 updating process -- you need to insert a "so"  
23 after the word "rule" at the beginning of the  
24 line that you're on there, Cori - so as to  
25 formalize the updating process.

1           It is actually Section K, how will NIOSH  
2           make changes in the scientific elements  
3           underlying. It should be Section K.

4           **MS. HOMER:** Instead of J?

5           **DR. ZIEMER:** Instead of J, be moved to the  
6           main body of the rule so as to formalize the  
7           updating process. And I guess all we really need  
8           to say there is the updating process, including  
9           the role of the Board, and that'll parallel, or  
10          the role of the Advisory Board. We don't have to  
11          go through all the details.

12          Should we say Advisory Board?

13          **UNIDENTIFIED:** Yes.

14          **DR. ZIEMER:** Okay.

15          Now, Cori, why don't you go ahead and start  
16          working on that second brief one that you have  
17          while we look at --

18          **MS. HOMER:** Marie's working on it.

19          **DR. ZIEMER:** Oh, okay. Okay.

20          Let's look at those words. We can just take  
21          these -- some of these I think will be fairly  
22          simple.

23          Is there any comment on that first one  
24          there, just that first sentence? Just the first  
25          sentence up there. That's the first

1 recommendation. Nothing to do with the three  
2 questions. That's just the moving of that  
3 section on updating from the preamble to the body  
4 of the rule. It basically codifies the role of  
5 the Board in changes.

6 (No response)

7 **DR. ZIEMER:** Can I have a motion that we  
8 adopt this as a recommendation?

9 **DR. DEHART:** So moved.

10 **DR. ZIEMER:** Second?

11 **UNIDENTIFIED:** (Inaudible)

12 **DR. ZIEMER:** Formal discussion on this?

13 (No response)

14 **DR. ZIEMER:** Word changes, pro or con?

15 (No response)

16 **DR. ZIEMER:** All in favor, say aye.

17 (Affirmative responses)

18 **DR. ZIEMER:** Opposed?

19 (No response)

20 **DR. ZIEMER:** Now I might add that -- I'm not  
21 proposing that we're going to adopt all these as  
22 we go. I think some of the simple ones we'll  
23 just do, but I want to save particularly our  
24 actions on the three questions and so on till  
25 after the public comment period today, in

1 fairness to hear other views. Some of these are  
2 more sort of minor things in how the rule is  
3 written right now.

4 We had the item on clarifying the use of the  
5 term "validated." And Roy, did you -- who  
6 rewrote that? Did somebody rewrite that?

7 **DR. DEHART:** That was number three.

8 **DR. ZIEMER:** That was number three?

9 **MS. MURRAY:** Just about done.

10 **DR. ZIEMER:** Just about done?

11 What was number two?

12 **MS. HOMER:** (inaudible)

13 **DR. ZIEMER:** I meant number two from our  
14 early list. I had on my list that number two was  
15 the use of the word "validated."

16 **MR. PRESLEY:** That's right, 82.10(j).

17 **DR. ZIEMER:** Yes.

18 **DR. DEHART:** Do you have the overhead?

19 **DR. ZIEMER:** Yes.

20 **MS. HOMER:** Number two, Section 82.10,  
21 paragraph (j), clarify the use of the term  
22 "validated" on page 50988.

23 **DR. ANDERSON:** It seems to that what we  
24 might want to do is ask -- that might be a good  
25 one for a definition, that if they were to define

1 "validated" up front in their list of  
2 definitions, then that would tell us what they  
3 mean.

4 **DR. ZIEMER:** So possibly something as  
5 follows: The Advisory Board requests that the  
6 term "validated" be either defined or clarified.

7 **DR. ANDERSON:** Yeah.

8 **DR. ZIEMER:** Let's say "validated" as used  
9 in Section 82.10(j).

10 Now let me ask if that captures the idea,  
11 because this may be all we need to do on that.  
12 Does someone wish to move adoption of that?

13 **MR. PRESLEY:** So moved.

14 **DR. ZIEMER:** Second?

15 **MS. MUNN:** Second.

16 **DR. ZIEMER:** Any discussion?

17 (No response)

18 **DR. ZIEMER:** All in favor, say aye.

19 (Affirmative responses)

20 **DR. ZIEMER:** Any opposed say no.

21 (No response)

22 **DR. ZIEMER:** Carried.

23 The third one had to do with the time line.  
24 Is that correct?

25 **MS. HOMER:** Clarify steps and time line for

1 claimants.

2 **DR. ZIEMER:** Right. And Henry, did you have  
3 the words on that?

4 **DR. ANDERSON:** No.

5 **DR. ZIEMER:** Who did the time line words?  
6 Did anybody?

7 (No response)

8 **DR. ZIEMER:** Okay, we'll come back to that  
9 one, then.

10 What we had as number four was the use of  
11 the word "may" versus "will." If you'll turn to  
12 Section 82.13, and I'd like to ask Ted -- is Ted  
13 here? Yes, Ted, you explained that to me, I  
14 think, in a satisfactory way. We may be able to  
15 drop it. I'd like you to clarify that to the  
16 Advisory Board.

17 **MR. KATZ:** Sure, thanks.

18 So the title says, what sources of  
19 information may be used for dose reconstruction?  
20 And we want that to be inclusive of  
21 possibilities, but not binding NIOSH to using all  
22 sources under that title in each instance.

23 And then the following sentence, which Dr.  
24 Ziemer noted sounds contradictory, it says NIOSH  
25 will use the following sources of information for

1 dose reconstructions, but it has the caveat "as  
2 necessary," so it in fact isn't binding NIOSH to  
3 use all of those sources for each instance.

4 So they're actually, I think, they're  
5 consistent and appropriately organized.

6 **DR. ZIEMER:** So I was comfortable with that  
7 explanation, and felt we probably could drop  
8 this. But I wanted, since we had it on the  
9 floor, to see if there are those who wish to keep  
10 it, or are you satisfied with what you just heard  
11 as the explanation?

12 (No response)

13 **DR. ZIEMER:** Are there any that object to  
14 just dropping that one?

15 (No response)

16 **DR. ZIEMER:** Without objection, it will drop  
17 from our inventory of comments.

18 Thank you, Ted.

19 We'll allow for those editorial corrections.  
20 The intent was clear. Let's see.

21 Pardon me?

22 **MR. PRESLEY:** Bob Presley. We said we were  
23 going to drop five. Is that correct?

24 **DR. ZIEMER:** I think the number that I had  
25 it here on my list was four. Was it four? Was

1 four on our inventory list, the use of "may" and  
2 "will." Okay. We're just dropping that one.

3 I have number five as being the reference to  
4 the ICRP models. Might I suggest that on that  
5 one, rather than us trying to specify what ICRP  
6 models are to be used -- right now, as it appears  
7 in here, there would be no restrictions on what  
8 ICRP models are used, including the ICRP 2. And  
9 I think that's not the intent. The intent is to  
10 use current models, but it doesn't say that,  
11 either.

12 So perhaps the best thing that we could do  
13 right now is to ask NIOSH to clarify in some way  
14 the intent and meaning of the phrase "ICRP  
15 models," so as to -- without us trying to say  
16 what those models are. I know that the intent is  
17 to use current models, but current models may  
18 change. And how rapidly does NIOSH need to  
19 change when a new model comes out is also an  
20 issue.

21 I don't think we can solve that today, but  
22 perhaps the way to address this is simply to ask  
23 NIOSH to clarify their intent on the phrase "use  
24 ICRP models."

25 **DR. ANDERSON:** Could we put a modifier in

1 front and say most appropriate, which would --

2 **DR. ZIEMER:** Well, perhaps without us trying  
3 to do the wording for them, simply ask the staff  
4 to clarify that.

5 Would that -- let me ask either Larry or  
6 Jim, is this something that you could clarify the  
7 wording? We would simply ask that that be  
8 clarified in the final document.

9 **DR. NETON:** Yes, I think we could do that.

10 **DR. ZIEMER:** So that the recommendation --  
11 let's see where we are here. Okay, we'll just  
12 pause a minute, because they're inputting some  
13 other words for a later comment.

14 **DR. MELIUS:** I wrote up number three and  
15 gave it to them, so --

16 **DR. ZIEMER:** Okay, thank you. Number three  
17 on the inventory list, yes.

18 **DR. ZIEMER:** Okay. Henry has suggested that  
19 the words that just show up there under number  
20 one be added to our original number one that we  
21 adopted on the issue of moving Section K into the  
22 body. Is that correct, Henry? This is simply  
23 some words of amplification on the  
24 recommendation.

25 (Reading) The rule does an admirable job of

1 providing an objective process for conducting  
2 dose reconstruction. However, the assessment of  
3 the adequacy of the exposure information will  
4 involve professional judgment; thus some  
5 subjectivity. The Board plays an important role  
6 through its review of such decisions on dose  
7 reconstructions, and that role needs to be  
8 included in the rule.

9 **DR. ANDERSON:** I just thought we needed to  
10 have a strong justification. Otherwise it sounds  
11 very self-serving.

12 **DR. ZIEMER:** So Henry, you are making this  
13 as a motion to add this to what we adopted for  
14 the number one comment?

15 **DR. ANDERSON:** Yes.

16 **DR. ZIEMER:** Is there a second?

17 **DR. ROESSLER:** Second.

18 **DR. ZIEMER:** Any discussion?

19 (No response)

20 **DR. ZIEMER:** All in favor of this addition  
21 to number one, say aye.

22 (Affirmative responses)

23 **DR. ZIEMER:** Any opposed, say no.

24 (No response)

25 **DR. ZIEMER:** Thank you.

1           Now the one that's going up there now is  
2           number three, I believe, the time line issue.

3           Is this the one, Jim, that you prepared?

4           **DR. MELIUS:** Yes.

5           **DR. ZIEMER:** So what's being typed there  
6           would be preceded by a pound sign three from our  
7           inventory list.

8           (Reading) The Board recommends that NIOSH  
9           clarify 82(m), (n), (o) in regards to the time  
10          line for the claimants or representative of the  
11          claimants to provide information to NIOSH as to -  
12          -

13          **DR. MELIUS:** And to sign or submit.

14          **DR. ZIEMER:** And to sign or -- yeah, rather  
15          than as. And to sign or submit form OCAS-1.

16          So while that's being typed before you, turn  
17          to page 50988, right-hand column, and there are  
18          the Sections (m), (n) and (o).

19          So the words that Jim has proposed here now:

20          (Reading) The Board recommends that NIOSH  
21          clarify 82.10(m), (n), (o) in regards to the time  
22          line for the claimants or representative of the  
23          claimants -- should that be representatives?

24          **UNIDENTIFIED:** Claimants or their  
25          representatives --

1           **DR. ZIEMER:** -- of the claimants -- that  
2 could be editorial -- to provide information to  
3 NIOSH and to sign or submit form OCAS-1. NIOSH  
4 should ensure that the claimants or  
5 representatives of the claimants have adequate  
6 time to obtain and submit additional information  
7 to NIOSH.

8           That's the proposed wording. Was that a  
9 motion, Jim, to -

10          **DR. MELIUS:** Yes.

11          **DR. ZIEMER:** -- to include that?

12           Is there a second?

13          **MR. ESPINOSA:** Second.

14          **DR. ZIEMER:** And seconded.

15           Let me ask -- you haven't said anything  
16 other than clarify. Is there an issue on the 60-  
17 day, or do you think this will -- the  
18 clarification that you're asking for will address  
19 the 60-day issue?

20          **DR. MELIUS:** (inaudible) the 60 days.  
21 Remember, the 60 days is (inaudible) how you  
22 interpret -

23          **MS. NEWSOM:** Would you use your mike,  
24 please?

25          **DR. MELIUS:** Sorry. It's as much how you

1 interpret (m), (n), and (o), and Ted and I  
2 disagree on some of those paragraphs, but I think  
3 it's just a matter of clarification.

4 **DR. ZIEMER:** So this would at least point  
5 out that there's some degree of ambiguity there  
6 that needs to be looked at.

7 Further discussion?

8 (No response)

9 **DR. ZIEMER:** Are you ready to act on motion  
10 to adopt this recommendation?

11 Yes, Wanda.

12 **MS. MUNN:** One minor comment. When we were  
13 talking about it originally, we said we wanted  
14 clarification of the steps and time line. Do we  
15 want to include --

16 **DR. ZIEMER:** Yes, I have that same wording  
17 in my notes.

18 Jim and the seconder, do you object to  
19 adding the word "steps?"

20 **DR. MELIUS:** No.

21 **DR. ZIEMER:** The steps and time line in line  
22 one?

23 **DR. MELIUS:** I probably said it yesterday  
24 and forgot, but --

25 **DR. ZIEMER:** That's the one you forgot, yes.

1 Steps and time line. And an editorial change,  
2 let's say again the Advisory Board at the  
3 beginning of the sentence.

4 Without objection, this is the motion, then.

5 **DR. MELIUS:** Could I -- if we're  
6 editorializing, actually the wording, I think,  
7 used in the regulation is "authorized  
8 representative of the claimant," is the --

9 **DR. ZIEMER:** So noted. A friendly editorial  
10 amendment, without objection, will be included.

11 Are we prepared now to act on this  
12 recommendation?

13 All those in favor will say aye.

14 (Affirmative responses)

15 **DR. ZIEMER:** All opposed.

16 (No response)

17 **DR. ZIEMER:** Eyes above the nose, as they  
18 say. That didn't work, did it?

19 **MR. ELLIOTT:** I laughed.

20 **DR. ZIEMER:** I was just seeing if  
21 everybody's awake.

22 **DR. MELIUS:** And by the next meeting, your  
23 staff better start laughing when you laugh,  
24 right?

25 (Laughter)

1           **DR. MELIUS:** Speak to them, Larry.

2           **MR. ELLIOTT:** Point well taken.

3           **DR. ANDERSON:** Cori, did you get my number  
4 six?

5           **MS. HOMER:** That's a good question.

6           **MS. MURRAY:** Uh-oh, is that this one  
7 (indicating)?

8           (Laughter)

9           **DR. ZIEMER:** We have punts on one, two,  
10 three. Number four was dropped. Number five was  
11 the ICRP model one. Where is number five?

12           **MS. HOMER:** (inaudible)

13           **DR. ZIEMER:** Okay, thank you. We'll pause  
14 for a moment.

15           Okay, we're back to number five on the  
16 inventory list, which was Section 82.18. In  
17 referring to ICRP models, the Advisory Board --  
18 I'll give you some words here -- In referring to  
19 ICRP models in Section 82.18 -- start the  
20 sentence over.

21           In referring to ICRP models in Section 82.18  
22 -- actually, I already don't like this sentence  
23 because I know what's going to happen. This is  
24 going to end up as a dangling participle.

25           (Laughter)

1           **DR. ZIEMER:** And I want to advise everyone  
2 that dangling participles are one thing that I  
3 hate. I jump on my graduate students for them  
4 all the time, and I can assure you that almost  
5 any sentence beginning with I-N-G, including the  
6 documents we reviewed yesterday, are full of  
7 dangling participles, which someone needs to deal  
8 with. So this sentence is going to be changed  
9 before I even get it out. We're going to go back  
10 to the Advisory Board -- we're going to get rid  
11 of the dangling participle before it dangles.

12           **MS. MURRAY:** You can cut and paste later,  
13 Cori.

14           **DR. ZIEMER:** Sorry.

15           The Advisory Board recommends that Section  
16 82.18 concerning the use of ICRP models be  
17 clarified so as to clearly indicate the models  
18 that NIOSH intends to use.

19           Now let me ask somebody to move this  
20 formally, and we'll get it on the floor here.

21           **DR. ROESSLER:** So moved.

22           **DR. ZIEMER:** Seconded?

23           **MR. PRESLEY:** (inaudible)

24           **DR. ZIEMER:** And seconded.

25           The intent here is -- let me editorialize --

1 the intent here is not to ask them to list the  
2 models in the document, but rather to indicate  
3 how they decide what models to use. And I think  
4 the intent is to use current models, but if we  
5 ask them to put the word "current" in, then that  
6 locks them into changing every time, immediately  
7 when a new model comes out. And there has to be  
8 some process by which the use of even new models  
9 as they come out is handled.

10 So perhaps we simply ask them to clarify,  
11 and I think Jim and Larry have indicated that the  
12 might come up with some appropriate words to make  
13 sure that everybody understands it's the current  
14 models within reason, so to speak. And does this  
15 wording cover what we want to say here?

16 And I think Wanda, do you have you hand up?

17 **MS. MUNN:** Yes, I do. In the second line,  
18 could we -- don't type anything yet, Cori --  
19 could we say indicate which models NIOSH intends  
20 to use and the rationale for that choice?

21 **DR. ZIEMER:** I like that. I'll take that as  
22 a friendly amendment if the mover and seconder  
23 will assume that to be a friendly amendment.

24 **MS. HOMER:** To indicate which?

25 **MS. MUNN:** Which, take out "the," and you

1 can take out "that." Which models NIOSH intends  
2 to use, comma --

3 **DR. ZIEMER:** Yes?

4 **DR. ROESSLER:** I thought of suggesting that,  
5 too, but then to me "which" is very specific. To  
6 me it would mean that they'd have to tell us.

7 **MR. PRESLEY:** That's what I -

8 **DR. ROESSLER:** I think it was better to  
9 leave it -- I know what Wanda's saying, but I'm  
10 afraid the "which" can be interpreted to mean  
11 that they have to tell us the numbers or the  
12 exact models.

13 **DR. ZIEMER:** That's not the intent here  
14 either, is it, Wanda?

15 **MS. MUNN:** No, it isn't.

16 **DR. ZIEMER:** So that friendly amendment  
17 turned out not to be so friendly, then.

18 **MS. MUNN:** That's true. It just screwed up  
19 the whole thing.

20 **DR. ZIEMER:** It's rapidly turning to an  
21 adversarial amendment.

22 **DR. ROESSLER:** What words did --

23 **MS. MUNN:** We don't want that.

24 **DR. ROESSLER:** What words did you use when  
25 you had the dangling participle? I think there

1 were some other words in that section that might  
2 have worked better.

3 **DR. ZIEMER:** Well, I don't want to return to  
4 that.

5 **DR. ROESSLER:** No, I'm not saying to use the  
6 I-N-G word, but on your paper there you had  
7 something written after that that might work.

8 **DR. ZIEMER:** Well, I originally on my notes  
9 had that we want them to specify that the most  
10 current models are to be used, but I don't think  
11 we want to specify here the exact wording of  
12 this. I think the intent here would be to ask  
13 them to word it in such a way that it's clear  
14 that they are using current models, and have a  
15 framework for incorporating new models as they  
16 come into play.

17 **MS. MURRAY:** Could you just say current  
18 models?

19 **DR. DEHART:** Aren't the people who are going  
20 to answer that here, hearing our comments?

21 **MR. ELLIOTT:** This is sufficient.

22 **DR. ZIEMER:** Yeah, if this is sufficient, it  
23 was simply to ask them to clarify. And part of  
24 their clarification may be we're not going to  
25 tell you the model numbers, but we're going to

1 tell you more the intent and the process.

2 So maybe we're all right as we -- did the  
3 mover and seconder agree that this is what they  
4 really were intending to move and second? Yes?

5 **MR. PRESLEY:** That's fine.

6 **DR. ZIEMER:** We finally got their motion out  
7 of them.

8 Ted, now a comment.

9 **MR. KATZ:** Is it all right, Dr. Ziemer, if I  
10 just make a comment?

11 I'm a little bit concerned about this  
12 language, because the public might read this --  
13 despite the fact that we know what you're driving  
14 at here, the public might read this as the Board  
15 saying, in effect, we want you to specify the  
16 models. And that could be a problem, then, in  
17 terms of producing a final rule, and maybe that  
18 rule being challenged if someone in the public  
19 then says, well, NIOSH didn't do what its  
20 Advisory Board said.

21 **DR. ZIEMER:** Thank you. It's certainly not  
22 our intent to do that, so we may need to think of  
23 some words to modify this to make it clear that  
24 we simply want to -- we want to indicate -- want  
25 them to indicate how they will decide what models

1 to use, I guess is the issue, right?

2 Jim, can you help us with some words here?

3 **DR. MELIUS:** Well, I don't have wording, but  
4 I think what we want to do -- we have in our  
5 first recommendation a process for how they would  
6 change to a new model.

7 **DR. ZIEMER:** Yes.

8 **DR. MELIUS:** It would come back to the Board  
9 and go through that process. So I think we want  
10 to just indicate for this current -- at the  
11 current time, presently, what models they will be  
12 using. I think we want some language just to  
13 indicate that they should be scientifically --  
14 reflect current state of the science in this  
15 area.

16 **DR. ZIEMER:** So you're suggesting that this  
17 might even go so far as to say so as to clearly  
18 indicate that they intend to use current models  
19 at the time that the rule is adopted?

20 **DR. MELIUS:** Yeah.

21 **DR. ZIEMER:** Because there is a provision  
22 for changing the models.

23 **DR. MELIUS:** Right. And I don't think --  
24 are there any models that are just very recently  
25 adopted, that there'd be some concern or question

1 about?

2 **DR. ZIEMER:** Ted, can you answer that?

3 **MR. KATZ:** We don't think so. I think  
4 that'll be all right.

5 **UNIDENTIFIED:** That's what you're using  
6 (inaudible).

7 **DR. ANDERSON:** Is there any risk that in the  
8 future ICRP won't be the ultimate source of  
9 models, and that there might well be a -

10 **DR. ZIEMER:** Well, that --

11 **DR. ANDERSON:** I mean, this ties them into -  
12 - it's you're going to use ICRP.

13 **DR. ZIEMER:** Well, they're currently tied  
14 into that here anyway, and that's pretty  
15 problematical. I don't know that we should try  
16 to deal with that.

17 **DR. MELIUS:** Yeah, but again, the process --

18 **DR. ZIEMER:** Right.

19 **DR. MELIUS:** -- would allow that to be  
20 (inaudible) -

21 **DR. ZIEMER:** Right. I think it's a good  
22 suggestion.

23 Why don't you just give us a motion to amend  
24 here, and what words would you put in there to  
25 indicate that NIOSH -- to clearly indicate that

1 NIOSH intends to use current models at the time  
2 of the adoption of the rule-making, or something  
3 like that?

4 **DR. MELIUS:** Yeah, I think just to clearly  
5 indicate that NIOSH intends to use current ICRP  
6 models.

7 **DR. ZIEMER:** Do we need to say at the time  
8 of the adoption of the rule-making, or --

9 **DR. MELIUS:** Okay.

10 **DR. ZIEMER:** No?

11 **DR. MELIUS:** I don't think so, but we've --  
12 I don't have any objections to that.

13 **DR. ZIEMER:** Let's just formalize this.  
14 This is a motion to amend.

15 Is there a second?

16 **DR. DEHART:** Second.

17 **DR. ZIEMER:** Any discussion?

18 (No response)

19 **DR. ZIEMER:** All in favor to amend, say aye.

20 (Affirmative responses)

21 **DR. ZIEMER:** Any opposed?

22 (No response)

23 **DR. ZIEMER:** Now the motion before us is  
24 number five, as written. Okay, let's vote.

25 All in favor, say aye.

1 (Affirmative responses)

2 **DR. ZIEMER:** Any opposed?

3 (No response)

4 **DR. ZIEMER:** The motion carries. Number  
5 five is adopted.

6 Let's see, four was dropped. Can we move --  
7 where you have number one there, where you say  
8 add, can you do a cut and paste now and stick  
9 that up with the original part of number one so  
10 we can see that?

11 Now you can move that number one up to where  
12 the original one was. Pound sign one, right.  
13 Pound sign one at the beginning. We're sort of  
14 distinguishing between the three questions in the  
15 inventory numbers here. And then you can drop  
16 the word "add" there at the end, then.

17 This has already been adopted. We just  
18 wanted to get it all together. Did we pass the  
19 second -- yeah, I thought we did. But I think  
20 there was -- somebody wanted to make a comment.

21 Ted, did you want to make a comment on this?

22 **MR. KATZ:** I would, thank you. You may want  
23 to consider the statement in there, all methods  
24 proposed -- this is in the second paragraph --  
25 will result in significant bias in favor of the

1 claimant. And -

2 DR. ZIEMER: Wait, hold on. We're not there  
3 yet, Ted.

4 MR. KATZ: Okay.

5 DR. ZIEMER: That's a separate item. That's  
6 a separate item.

7 MR. KATZ: Sorry.

8 DR. ZIEMER: Did you have a comment on just  
9 that first paragraph? Okay, that's fine.

10 One, two, three; four was dropped; five  
11 we've done. Six is the Privacy Act issue and the  
12 researchers. And Henry, is this your --

13 DR. ANDERSON: Yeah.

14 DR. ZIEMER: Okay. Henry is making a motion  
15 that we say except as provided under -- this  
16 would say the Advisory Board recommends that  
17 Section 82.28(b) be revised so as to state that;  
18 and then the words would be, quote, "except as  
19 provided for under the Privacy Act, researchers  
20 will not receive names," et cetera.

21 So that's your motion?

22 DR. ANDERSON: Yes.

23 DR. ZIEMER: Is there a second?

24 MR. ESPINOSA: Second.

25 DR. ZIEMER: Now wasn't there already a

1 Privacy Act statement in there?

2 DR. ANDERSON: It starts in there, yes.

3 DR. ZIEMER: So are you suggesting that  
4 paragraph (b) be replaced by these words, or how  
5 would the --

6 DR. ANDERSON: No, it's the end. It's the  
7 second -- it's the last sentence. You could  
8 delete --

9 DR. ZIEMER: Okay. It repeats the Privacy  
10 Act issue, or what?

11 DR. ANDERSON: Yes, right. And my  
12 understanding was that NIOSH wanted to make it  
13 clear that except for the Privacy Act,  
14 categorically no names would be released.

15 DR. ZIEMER: Okay. So basically this  
16 motion, if adopted, does not restrict the  
17 releasing of names, but only says it will only be  
18 done within the provisions of the Privacy Act.

19 DR. ANDERSON: Yes.

20 DR. ZIEMER: Rather than the complete  
21 exclusion.

22 DR. ANDERSON: Yeah.

23 DR. ZIEMER: I think that was the intent,  
24 right? Okay.

25 DR. MELIUS: Can I offer just a friendly

1 amendment to clarify that? That we recommend  
2 that the last sentence of Section -

3 **DR. ANDERSON:** Yes.

4 **DR. MELIUS:** -- 82.28 be --

5 **DR. ZIEMER:** Thank you. That, without  
6 objection, will be added.

7 **MS. HOMER:** That this will be added to the  
8 last sentence?

9 **DR. ANDERSON:** Yes.

10 **DR. ZIEMER:** Section -- put it after the  
11 (b), I think, Cori, Section 82.28(b) --

12 **DR. MELIUS:** The last sentence.

13 **DR. ZIEMER:** -- last sentence be revised so  
14 as to state. Okay.

15 This now is the motion before us. Any other  
16 discussion?

17 Wanda, thank you.

18 **MS. MUNN:** I guess I have some concern that  
19 there are other identifying demographic items  
20 which would identify individuals other than just  
21 their names. For example, anybody who knows my  
22 Social Security number can find out who I am.  
23 And so I would suggest that possibly the  
24 insertion of "or other clearly identifiable data"  
25 --

1           **DR. ZIEMER:** Before we take that as a formal  
2 motion, let me ask you a question. Does the  
3 Privacy Act itself cover that kind of issue so  
4 that this broad statement takes care of that?

5           Jim, and then Larry.

6           **DR. MELIUS:** I think the preceding sentence  
7 actually addresses Wanda's concerns. The problem  
8 is that it wasn't clear that the last sentence  
9 was -- that names were specifically covered, but  
10 other information, as I read that sentence, would  
11 be; other identifying information would be  
12 covered. So I think the preceding sentence takes  
13 care of your concern.

14           **MR. ELLIOTT:** The Privacy Act does address  
15 confidential information.

16           **DR. ZIEMER:** Including --

17           **MR. ELLIOTT:** Not only name, Social Security  
18 number, any personal identifiable information  
19 like job title. If that's the only job title in  
20 that plant, we could not use that. So it  
21 addresses all of that.

22           **DR. ZIEMER:** Thank you.

23           Further comments or -- yes, Henry.

24           **DR. ANDERSON:** Yeah, my druthers would be to  
25 have deleted that sentence, because I think it's

1 all covered in the first part. And I would  
2 agree, I think one could interpret this to mean  
3 that everything else would be fair game, although  
4 I think legally you would be bound by the -- if  
5 you said it was confidential, or identify --  
6 personal -- we could say researchers will not  
7 receive names of claimants or covered employees  
8 or other identifying information. I don't know.

9 **MR. ELLIOTT:** If I could offer a suggestion  
10 and a comment here. We understand what your  
11 concern is with this language. If you simply  
12 just ask us to clarify the intent of that  
13 passage, we can do so, and we have to do so with  
14 guidance from general counsel and the Privacy Act  
15 officer, okay?

16 **DR. ANDERSON:** Yeah.

17 **MR. ELLIOTT:** Now this is kind of a tricky  
18 entry here, and I need to get clearance and  
19 guidance from both of those sources of support.  
20 So don't lock me into not adding a sentence you  
21 want to see added, because it could go counter to  
22 what -

23 **DR. ZIEMER:** Yeah. So what you're saying is  
24 that it may be that legally this is not the right  
25 sentence anyway to put in there, or there may be

1 a better way of doing it. And the way to get  
2 around that, then, would simply be to ask --

3 **DR. ANDERSON:** The last sentence be  
4 clarified.

5 **DR. ZIEMER:** -- that this be clarified.

6 **DR. ANDERSON:** As to the intent of it.

7 **MR. ELLIOTT:** That's what you want.

8 **DR. ANDERSON:** Yeah.

9 **DR. ZIEMER:** Do the mover and seconder wish  
10 to withdraw that motion and make a substitute  
11 motion?

12 **DR. ANDERSON:** Yes, I'll withdraw.

13 **DR. ZIEMER:** The motion has been withdrawn.

14 Do you wish to give us a substitute motion,  
15 such as the Advisory Board recommends that  
16 Section 82.28(b), last sentence, be clarified?

17 **DR. ANDERSON:** Yes.

18 **MS. HOMER:** Be clarified, period?

19 **DR. ZIEMER:** Be clarified so as to what? Or  
20 clarified in regards to -- yes?

21 **DR. MELIUS:** In regards to the coverage of  
22 the Privacy Act for that information?

23 **MR. ELLIOTT:** That's fine.

24 **DR. ANDERSON:** Yeah, that's good.

25 **DR. ZIEMER:** Okay, who's moving that?

1 Henry, that's your new motion, right?

2 DR. ANDERSON: I will, yes.

3 DR. ZIEMER: Thank you. Who seconded  
4 Henry's new motion?

5 MR. ESPINOSA: Second.

6 DR. ZIEMER: Okay. In just a moment you'll  
7 get to see what your motion is.

8 DR. ANDERSON: That got it. That's it.

9 DR. ZIEMER: Thank you.

10 Any discussion on this?

11 (No response)

12 DR. ZIEMER: All in favor, say aye.

13 (Affirmative responses)

14 DR. ZIEMER: Any opposed?

15 (No response)

16 DR. ZIEMER: Motion carries. Thank you.

17 Now have we covered all the inventory items?

18 DR. ANDERSON: I think so.

19 DR. ZIEMER: With the exclusion of the three  
20 broad questions? Okay.

21 Now I'd like to have us get the words of the  
22 -- the proposed words of the three broad  
23 questions before us. I think the word "interim"  
24 there, does that start number one?

25 MS. HOMER: Yes, it does. Well, it starts

1 what Ms. Wunn -- Ms. Munn submitted to me.  
2 Excuse me.

3 **DR. ZIEMER:** It's almost easier to say  
4 Wanda, isn't it?

5 **MS. HOMER:** Wanda.

6 **DR. ZIEMER:** Yes, Wanda, please. Could you  
7 repeat what you just said?

8 **MS. MUNN:** Those two paragraphs were  
9 intended to cover all three of the issues that  
10 were placed before us.

11 **DR. ZIEMER:** Right, thank you for clarifying  
12 that.

13 In a sense, Wanda has integrated her  
14 comments to cover the three paragraphs. We need  
15 to determine whether or not we should simply say  
16 that we're commenting on all three with sort of a  
17 set of statements, or whether we will in fact at  
18 some point break them back down into three  
19 pieces. But we're looking at, I think, three  
20 paragraphs -- for the moment, let's put a one  
21 there, if we might, just -- so we have one, which  
22 right now is in two paragraphs; and then the  
23 number two there is the next part.

24 So that's what we would have before us as a  
25 sort of starting points as general comments on

1 the three questions.

2 **MS. MUNN:** Actually, I believe we have  
3 number three also, don't we? I think that's --

4 **DR. ZIEMER:** Is there a --

5 **MS. MUNN:** Someone wrote --

6 **DR. ZIEMER:** Well, that number three is --  
7 oh, yes. Okay, right. Okay. Now we have --  
8 right now we do have those three general sets of  
9 comments.

10 Now just for procedural matters let me just  
11 ask someone to move those three, and we'll just  
12 have them before us, and then we'll discuss them.

13 **DR. DEHART:** I move.

14 **DR. ZIEMER:** And we're not going to -- as I  
15 said, I'm going to specify that we not vote on  
16 these. We may not vote on them till after lunch,  
17 even. But I want to get them out here, discuss  
18 them.

19 I also want to have opportunity for public  
20 comment not only on these items, but just other  
21 comments that might be -- again, reminding  
22 members of the public if you do wish to comment  
23 and haven't done so, please get your name on the  
24 comment roster. We're actually scheduled for  
25 public comment, I think, in 15 minutes.

1           So we have a little time for some  
2 preliminary discussion here.

3           **DR. DEHART:** Are you wanting a motion?

4           **DR. ZIEMER:** Yes.

5           **DR. DEHART:** I would propose the motion.

6           **DR. ZIEMER:** Okay.

7           **MS. MUNN:** Second.

8           **DR. ZIEMER:** Motion to adopt these four  
9 paragraphs. Is there a second?

10          **MS. MUNN:** Second.

11          **DR. ZIEMER:** Okay. Now discussion. And for  
12 convenience, you might want to just talk about  
13 them a paragraph at a time, although realizing  
14 there's a sense in which there's some integration  
15 here it may not be fully possible.

16          Comments? Roy, please.

17          **DR. DEHART:** I don't know whether it's  
18 appropriate to try to incorporate a single answer  
19 to the three questions, but I like the concept of  
20 doing that. And in fact, item number three  
21 listed there is appropriately covered by the  
22 second paragraph.

23          **MS. NEWSOM:** Dr. Ziemer, might I suggest you  
24 read those into the record?

25          **DR. ZIEMER:** Okay, read them into the

1 record. Let me ask the officer of the Board, the  
2 Federal officer, to read them into the record.  
3 New title.

4 **MR. ELLIOTT:** Okay.

5 **DR. ZIEMER:** I was trying to think of that  
6 official title, but I knew you were a Fed and I  
7 knew you were some kind of an officer, so --

8 **MR. ELLIOTT:** You can call me whatever you  
9 wish to call me.

10 (Reading) Number one, interim proposed rule  
11 42 CFR Part 82 makes appropriate use of current  
12 science in reconstruction of radiation dose  
13 scenarios to the extent practicable. The Board  
14 recognizes that if the efficient and expeditious  
15 consideration of claims is to be made, absolute  
16 precision is not possible. All methods proposed  
17 will result in significant bias in favor of the  
18 claimant, and in that regard are consistently  
19 conservative.

20 The process for involving the claimant is  
21 fair and provides multiple opportunities for  
22 interaction with the involved agencies. Indeed,  
23 in cases where acceptably dependable exposure  
24 data do not exist, the claimant or claimant  
25 family may be the only source available to

1 provide information that could form the basis for  
2 dose reconstruction. This circumstance  
3 automatically injects a high but unavoidable  
4 level of uncertainty into the calculation.  
5 However, we view the proposed methods for  
6 addressing these cases to be as equitable as  
7 reasonably achievable at this time.

8 Number two, the interim rule outlining  
9 methods for radiation dose reconstruction uses a  
10 number of innovative, scientifically sound, and  
11 implementable techniques which make the dose  
12 reconstruction process efficient without the loss  
13 of proper decision-making information.

14 Number three, the Board agrees that the  
15 interim rule implements an appropriate process to  
16 involve the claimant, from the formal claims  
17 application to interview to feedback on the  
18 specific dose reconstruction.

19 **DR. ZIEMER:** Thank you. So this is the  
20 motion before us.

21 It occurs to me that we have the makings of  
22 a new acronym here, AERA, As Equitable as  
23 Reasonably Achievable. Why not.

24 (Laughter)

25 **DR. ZIEMER:** Okay, let's have discussion.

1 Is implementable not a word? Why is that under -  
2 -

3 **MS. HOMER:** It doesn't recognize it.

4 **DR. ZIEMER:** It doesn't recognize it as a  
5 word. Okay.

6 **DR. ROESSLER:** It doesn't recognize NIOSH,  
7 either. So what?

8 (Laughter)

9 **DR. ZIEMER:** Jim, did you have a comment?

10 **DR. MELIUS:** Yeah. I object and don't  
11 believe that the third sentence of the first  
12 paragraph is accurate. I don't believe that all  
13 methods result in significant bias in favor of  
14 the claimant and et cetera. I think there may be  
15 some that are -- I guess I don't like the term  
16 "bias," but depending on how it's defined, but I  
17 think there are some parts of the methods that  
18 are conservative, but certainly not all of them  
19 are. So I would actually propose striking that  
20 sentence. I don't believe it's necessary to  
21 answer certainly the first question.

22 I also object to the -- it really it starts  
23 with the third sentence of the second paragraph,  
24 which is also the last sentence. I don't believe  
25 that using a claimant or claimant family as a

1 source of information automatically injects a  
2 high level of uncertainty. An easy example of  
3 that would be that the claimant or claimant's  
4 family points out that John Doe worked with Bob  
5 Smith, and that that then leads NIOSH to look at  
6 John -- look at Mr. Smith's exposure records and  
7 use them to reconstruct a dose estimate for John  
8 Doe. So I think there's a lot of circumstances  
9 there where that would not automatically have a  
10 high level of uncertainty. And again, I don't  
11 think that that section is necessary here.

12 **DR. ROESSLER:** I'd like to agree with Jim on  
13 the first point in particular. And I think one  
14 way to get rid of what I think are two  
15 objections. The "all methods" -- this is in the  
16 third sentence in the first paragraph there --  
17 that "all methods" part and the significant bias.  
18 I really don't like the word "bias" in here,  
19 because it has a scientific meaning and it has a  
20 kind of a general meaning. So I think his  
21 suggestion to just delete the paragraph might  
22 work. Or if not, we can change some of the words  
23 -- sentence, that last sentence.

24 **DR. ZIEMER:** Let me ask the Board at this  
25 time, do you wish the Chair to entertain specific

1 motions to change this, or do you prefer to have  
2 sort of a general discussion on all these points  
3 and then do changes all at once?

4 **DR. DEHART:** Prefer a general discussion.

5 **DR. ZIEMER:** First, and just leave the words  
6 for the moment, and then ask for formal motions  
7 for amendments? Okay.

8 Is that agreeable, and we'll come back and -  
9 -

10 **DR. MELIUS:** Yeah.

11 **DR. ZIEMER:** Okay, sort of get general  
12 comments first, and then we can entertain  
13 changes.

14 **MR. PRESLEY:** Bob Presley.

15 **DR. ZIEMER:** Bob.

16 **MR. PRESLEY:** In the first sentence up  
17 there, would you want to say scientific  
18 technologies in reconstruction? It's just  
19 wordsmithing, but it puts the words "science" and  
20 "technology" there. That's just a thought.

21 **DR. ZIEMER:** Thank you. Keep that thought.  
22 I believe the reason that was used is because  
23 that's the terminology used in the question. The  
24 specific question is does the interim rule make  
25 appropriate use of current science, and I believe

1 that was why the word is used. That does not  
2 preclude us from saying current science and  
3 technology or something, but I believe that's the  
4 reason.

5 Okay, other comments?

6 **DR. MELIUS:** This is more in terms of an  
7 additional subject that should be discussed,  
8 though it would fit to some extent in the second  
9 paragraph that's up there under number one.

10 And again, going to the second sentence,  
11 indeed, where cases where acceptably dependable  
12 exposure data do not exist, I would like to add  
13 some section there, as I mentioned before, where  
14 we -- I have concerns about the ability of the  
15 method to, or I guess the lack of clarification  
16 on the part of NIOSH in these current regulations  
17 and procedures, on how they will deal with the  
18 situation where there is limited information  
19 available and their ability to accurately  
20 reconstruct the dose. And then again, this gets  
21 into the issue of the Special Exposure Cohorts.

22 And I would be in favor of sort of working  
23 from that point there, the start of that second  
24 sentence, to talk about some of the uncertainties  
25 and difficulties in that area. I think without

1 necessarily focusing on the claimant or the  
2 claimant family as being the source of some of  
3 these issues, but rather that it's a general  
4 issue that the Board and NIOSH have to wrestle  
5 with in terms of doing these dose  
6 reconstructions, and that there's a limited  
7 ability to do that.

8 At some point NIOSH will not be able to do  
9 that, and we're presuming that the Special  
10 Exposure Cohort provisions will step in at that  
11 point, but we really haven't seen that yet.

12 **DR. ZIEMER:** Thank you for those comments.  
13 And Jim, perhaps we might consider adding a  
14 couple of sentences that might be developed over  
15 lunch that could -- rather than try to do that  
16 right here as we sit. It's a good idea, and  
17 maybe get a straw man couple of sentences, which  
18 if you would be willing to think about that.

19 **DR. MELIUS:** If it can fit on a small  
20 napkin, we'll --

21 **DR. ZIEMER:** Right, thank you. We'll limit  
22 the size of the napkins.

23 Wanda.

24 **MS. MUNN:** The author would like to suggest  
25 a potential change for that third sentence of the

1 first paragraph that was objected to. Would it  
2 be acceptable to say the methods proposed tend to  
3 favor the claimant, and in that regard are  
4 consistently conservative? Would that be  
5 acceptable?

6 **DR. ZIEMER:** You're asking the group in  
7 general?

8 **MS. MUNN:** Yes.

9 **DR. ZIEMER:** And again, without doing  
10 revisions at the moment, get that thought down,  
11 and then we can come back. And maybe others want  
12 to think about that for a little bit, as well.

13 **DR. ANDERSON:** Yeah, instead of the  
14 consistently conservative, I'd probably use are  
15 consistent with an occupational illness  
16 compensation program, or the concept, something  
17 like that. Because that's in the question, and I  
18 think the idea here is the intent of the law.  
19 This is consistent with that.

20 **DR. ZIEMER:** Okay. Keep that, Henry. Keep  
21 that ready.

22 Other comments on any of the paragraphs?  
23 Yes, Gen.

24 **DR. ROESSLER:** I'm not clear what we're  
25 doing. Are we looking at number one as being the

1 answer on all three? Or are we considering all  
2 three steps now with number two and number three  
3 specifically answering questions two and three?

4 **DR. ZIEMER:** Well, I think as was indicated  
5 earlier, there's a sense in which perhaps the  
6 first two paragraphs sort of answer all three, so  
7 right now it's not fully separated out. And it  
8 may be, depending on how we modify and so on,  
9 that we will just have a set of comments that  
10 aren't necessarily one, two, and three, but we  
11 say that in response to the three questions we  
12 have the following comments, and we don't  
13 necessarily say they're one to one. That's a  
14 possibility.

15 I think Wanda, who's the original composer  
16 of the first two paragraphs, has indicated that  
17 she has integrated her comments in a sense that  
18 they sort of overlap, as I understood it.

19 Wanda, is that not correct?

20 **MS. MUNN:** (Nods head)

21 **DR. ZIEMER:** Let's not look at these at the  
22 moment as being in one-to-one correspondence with  
23 the three questions in the NIOSH document.

24 Are there other comments at this point?

25 (No response)

1           **DR. ZIEMER:** If there are not, I'm going to  
2 declare a recess on our deliberations on this,  
3 without objection. We are not tabling it, but  
4 are simply -- will come back. We want to have  
5 opportunity for public comment on this or other  
6 matters before the lunch hour, have an  
7 opportunity for you to give further thought to  
8 these words during the lunch hour. And then my  
9 proposal would be that we come back, either with  
10 specific modifications or actions, right after  
11 lunch.

12           We have no sign-ups. Let me just ask if  
13 there are any comments from the public.

14           Yes, please. Richard, if you would use the  
15 front mike, and it will be easier for everyone.

16           **MR. MILLER:** Hi, it's Richard Miller.

17           I just have one question. As I was reading  
18 your discussion, what is the plan for -- in these  
19 rules and as the committee looks at them, if you  
20 have a situation where DOE has calculated a dose,  
21 lo and behold, and the estimate that they come up  
22 with that may be in the employee's record winds  
23 up being higher based on the methods that the DOE  
24 used than the methods that are applied through  
25 the NIOSH dose reconstruction process, will you

1 use the NIOSH outcome or the DOE outcome in that  
2 circumstance?

3 **DR. ZIEMER:** I think we'll have to have the  
4 staff answer that. But before they do, let's  
5 also recognize that the DOE number will be a  
6 point number. I think the NIOSH number's going  
7 to be a distribution with a mean and several  
8 standard deviations. And I guess your question  
9 would be what if that 95 percent number is still,  
10 say, less than the DOE number?

11 **MR. MILLER:** Right, if you wind up --

12 **DR. ZIEMER:** Point number?

13 **MR. MILLER:** Right, if you wind up -- if 99  
14 (sic) percent is what's used as the upper  
15 confidence limit, and you wind up with a delta  
16 between that and what DOE came up with as their  
17 estimate.

18 **DR. ZIEMER:** Yes. And here's Jim to -- Jim  
19 Neton to answer that.

20 **DR. NETON:** It's our intent that we would  
21 use our estimate, not the Department of Energy  
22 estimate, given the fact -- and I think you're  
23 alluding to a scenario where we would actually  
24 not use this efficiency process, and we would  
25 drop out and have to do a complete dose

1 reconstruction on the individual rather than do  
2 these conservative estimates at the two ends.  
3 And if we got to that point, we would use our  
4 estimate, which would be not a point estimate as  
5 the Department of Energy uses, but it would be an  
6 estimate with an uncertainty distribution about  
7 it.

8 Also, it is unlikely that there will be a  
9 one-to-one correspondence, because the Department  
10 of Energy typically only from the internal dose  
11 perspective calculates effective dose equivalent.  
12 They don't normally calculate -- well, they will  
13 calculate the dose to the highest exposed organ.  
14 For instance, many of the organs that we're  
15 calculating doses for are not estimated doses in  
16 the Department of Energy system.

17 Also, when the IREP program runs, it uses  
18 equivalent dose, not effective dose. And then  
19 the radiation weighting factors that are applied  
20 are applied as distributions within the IREP  
21 program, which adds another level of uncertainty  
22 to the estimate, thereby essentially increasing  
23 the claimant's chance or probability of  
24 compensation.

25 So there's a number of differences that

1 exist.

2 **MR. MILLER:** Oh, I think that's right, Jim.  
3 I just was posing the hypothetical, because you  
4 could easily wind up with an annual dose. As you  
5 -- and you're correct, the IREP model inserts a  
6 dose for each year throughout the latency period  
7 up to the point of the cancer.

8 **DR. NETON:** Right.

9 **MR. MILLER:** And so you're introducing a  
10 distribution for each year on a, I guess, a  
11 committed basis, but not an effective dose basis.

12 **DR. NETON:** Right. And there are no annual  
13 internal doses calculated in the Department of  
14 Energy system. They are assigned in that year,  
15 but they're calculated over a 50-year time  
16 period.

17 **MR. MILLER:** That's today. But prior to  
18 1990 -- and correct me if I'm wrong -- the  
19 Department of Energy never calculated committed  
20 dose. And it only was a result both of ICRP --  
21 the new ICRP that came out and the DOE's Price-  
22 Anderson regulations that were promulgated that  
23 required the calculation of committed effective  
24 dose.

25 **DR. NETON:** That's correct.

1           **MR. MILLER:** But that's only post-1990, and  
2 so I guess how would you deal with that if it was  
3 pre-1990?

4           **DR. NETON:** Pre-1990 annual doses were not  
5 calculated either for an internal perspective.  
6 There were maximum permissible organ burdens or  
7 maximum permissible body burden levels that can  
8 be related to annual dose or a dose to the organ.  
9 But in my experience, most sites did not  
10 calculate an annual dose to an internal organ and  
11 record it in their records. It's unlikely that  
12 you'll find --

13           **MR. MILLER:** Well, we wind up with it with  
14 those where you have relatively short biological  
15 half-lives. Say you have a biological half life  
16 of -- I'm quite familiar with some cases where  
17 there'd, say, be 30 days or so, and so you  
18 actually could and would have what is effectively  
19 an annual dose. I'm just trying to figure out,  
20 what do you if there's a conflict between what  
21 DOE comes up with as a data set, and what you're  
22 saying is there's no possibility of comparison  
23 between the two?

24           **DR. NETON:** Right. Even if there were a  
25 situation where DOE would have a higher annual

1 dose than we were putting into our IREP input,  
2 it's not intuitively obvious to me that the  
3 person would be better served using the  
4 distribution that we applied to the dose that had  
5 a lower central tendency estimate than the point  
6 estimate that the Department of Energy provided.  
7 You understand what I'm saying?

8 **MR. MILLER:** Oh, I certainly understand it.  
9 I'm just asking about what happens if you --

10 **DR. NETON:** Again, the short answer is we  
11 would use our approach and not the Department of  
12 Energy's.

13 **MR. MILLER:** That's the answer. Okay, thank  
14 you.

15 **DR. NETON:** I probably should have said  
16 that.

17 **DR. ZIEMER:** Thank you.

18 Are there any other members of the public  
19 that wish to comment?

20 (No response)

21 **DR. ZIEMER:** Jim, on the board.

22 **DR. MELIUS:** I have a procedural issue. I  
23 have done my wording, and I can give it to Cori  
24 now. I don't know if you want to try to break  
25 for lunch now and come back, or do we want to --

1           **DR. ZIEMER:** I think we -- I wasn't sure  
2 what we would have in the way of public comment,  
3 so we had allowed on the calendar or on the  
4 agenda 30 minutes. Obviously we have time, and  
5 we can proceed. I'm quite willing that we  
6 proceed. I think others are interested in  
7 pushing ahead.

8           While that wording -- is this wording for a  
9 modification here?

10          **DR. MELIUS:** Yeah, and actually fits -

11          **DR. ZIEMER:** Before she inserts that, would  
12 you move to amend, then?

13          **DR. MELIUS:** Yeah, I would move to amend.

14          **DR. ZIEMER:** And can you read your amendment  
15 to us? Before we insert it, I want to get it on  
16 the floor and --

17          **DR. MELIUS:** Okay. This would be inserted  
18 right up here -

19          **MS. MURRAY:** You need to be at a microphone,  
20 I'm sorry.

21          **DR. MELIUS:** Oh, okay. And this will need  
22 some further wordsmithing.

23                 (Reading) Indeed, in cases where acceptably  
24 dependable personal exposure data do not exist,  
25 NIOSH will utilize other sources of information

1 as the basis for dose reconstruction. This  
2 approach unavoidably injects additional  
3 uncertainty into the calculation of dose.  
4 However, we view the proposed methods as being  
5 appropriate for the available information.

6 Another paragraph:

7 (Reading) There will be many circumstances  
8 where NIOSH will not be able to estimate the dose  
9 with sufficient accuracy. These circumstances  
10 need to be clarified in the implementation of the  
11 regulation and in the Board's review of NIOSH's  
12 dose reconstruction work. Groups whose exposure  
13 cannot be estimated with sufficient accuracy will  
14 be candidates for Special Exposure Cohorts.

15 **DR. ZIEMER:** Is there a second to the  
16 motion?

17 **DR. DEHART:** Second.

18 **DR. ZIEMER:** Okay, it's seconded.

19 Now before we act on the motion, I'd like to  
20 ask that it be inserted with the redline insert  
21 so we keep the old words there for the group to  
22 see. And then we'll have an opportunity to  
23 discuss it without losing the current words.  
24 Because if the amendment were to be defeated, we  
25 don't want to have lost what we had. So we're

1 going to do a redline insert.

2 While that's being typed in, let's look  
3 ahead here at the agenda. The afternoon agenda  
4 calls for a Board working session and discussion  
5 of our comments, which is what we're doing now.  
6 The only other thing on the afternoon agenda is  
7 the public comment period.

8 If in fact we're able to come to closure  
9 here -- in fact, let me ask the Board, do you  
10 wish to continue working even if we go past 12:00  
11 in order to come to closure on these items?

12 **DR. ROESSLER:** Yes.

13 **DR. DEHART:** Yes.

14 **DR. ANDERSON:** Yes.

15 **DR. ROESSLER:** It's Valentine's Day.

16 **DR. ZIEMER:** It's Valentine's Day, okay.

17 Then we will push ahead.

18 Let me ask if there are any members of the  
19 public who had planned to make additional  
20 comments this afternoon. We don't want to  
21 preclude anyone if you were saving up something  
22 for this afternoon.

23 (No response)

24 **DR. ZIEMER:** It appears not. So we will  
25 then, without objection, push ahead and try to

1 finish, at which time we will have completed our  
2 duties for this meeting, and we'll go to our  
3 various Valentine's parties, which for some of us  
4 will be in the airport, I'm sure.

5 **MS. GADOLA:** While you're working on that, I  
6 had a question for Wanda. On the first sentence  
7 when she -- at the end you have to the extent  
8 practicable. And I'm not sure -- well, I think I  
9 do know what you meant by practicable, but I was  
10 sort of wondering if other people might  
11 misrepresent that.

12 **DR. ZIEMER:** Are you talking about the  
13 current wording, or what Wanda was proposing?

14 **MS. GADOLA:** The one that Wanda was  
15 proposing. The first sentence in number one  
16 where it says that it makes appropriate use of  
17 current science in reconstruction of radiation  
18 dose scenarios to the extent practicable. My  
19 concern was that some of the public might take  
20 that as meaning, well, we only did as much as we  
21 were easily able to do.

22 And I don't think that was your intent,  
23 Wanda.

24 **MS. MUNN:** I thought the second sentence  
25 clarified that, Sally.

1           **DR. ZIEMER:** Sally, were you suggesting that  
2 that phrase "to the extent practicable" simply be  
3 deleted, or --

4           **MS. GADOLA:** I was thinking maybe instead of  
5 practicable, you would say possible or allowable.  
6 To us it might mean exactly the same thing, but I  
7 was just wondering for those in the public that  
8 might be viewing this a little bit differently,  
9 and they might be criticizing that while saying,  
10 well, you could have done a better job if you had  
11 looked a little harder.

12           **DR. ZIEMER:** Yeah, and I suppose one of the  
13 issues on the use of the word "practicable" is  
14 often -- carries with it the balance between what  
15 is possible -- I mean, given enough time and  
16 money a lot of things are possible. But if you  
17 have to spend \$5 million to reconstruct a dose,  
18 that is not -- it may be possible but not  
19 practical.

20           **MS. MUNN:** Which is why I worded this -

21           **DR. ZIEMER:** So it is the issue of what  
22 those words mean. I think the word "possible" is  
23 not the right one. What was the other one you  
24 used, Sally?

25           **MS. GADOLA:** Allowable.

1           **DR. ZIEMER:** Allowable. Why don't we ponder  
2 that for a bit, and we can come back to that.  
3 Are you also doing the strike-out on this -- of  
4 the words that won't apply if the new thing's  
5 adopted?

6           **DR. MELIUS:** Actually, everything below the  
7 red down to number two will be struck out, I  
8 think.

9           **MS. HOMER:** The red is the new stuff.

10          **DR. ZIEMER:** Yes. I'm asking what is going  
11 to be stricken.

12          **DR. MELIUS:** Everything after the red down  
13 to number two.

14          **DR. ZIEMER:** Okay. So if you delete that,  
15 it'll still stay there with a line through it.  
16 Yeah, right.

17          **DR. MELIUS:** Yeah, it's just a little hard  
18 to keep the original without --

19          **DR. ZIEMER:** Right. Let me ask the court  
20 recorder if -- you did get the original insert  
21 words, I believe, correct? Do we need to reread  
22 what this would say in the context, or are we  
23 okay with what you have? There are some words  
24 that are going to be struck, but -- we'll get the  
25 final thing there. If we need to reread it,

1 we'll do so.

2 **MS. NEWSOM:** Yeah, I think reread it before  
3 you take a vote on it.

4 **DR. ZIEMER:** Thank you.

5 Now let me ask Jim, is this everything that  
6 you were including in your motion?

7 **DR. MELIUS:** Correct.

8 **DR. ZIEMER:** It would be to insert the red  
9 and strike out the items indicated.

10 **DR. MELIUS:** Right. I just want to clarify,  
11 I have utilized some of the wording from what was  
12 originally up there, so it's a little bit -- it  
13 is confusing, but --

14 **DR. ZIEMER:** Okay, so let's ask Larry to  
15 read this as the second paragraph now. Read this  
16 for the official record, that paragraph.

17 **MR. ELLIOTT:** (Reading) The process for  
18 involving the claimant is fair and provides  
19 multiple opportunities for interaction with the  
20 involved agencies. Indeed, in the cases where  
21 acceptably dependable personal exposure data do  
22 not exist, NIOSH will utilize other sources of  
23 information as the basis for dose reconstruction.  
24 This approach unavoidably injects additional  
25 uncertainty into the calculation of dose.

1           However, we view the proper methods as being  
2           appropriate for the available information.

3           There will be many circumstances where NIOSH  
4           will not be able to estimate the dose with  
5           sufficient accuracy. Those circumstances need to  
6           be clarified in the implementation of the  
7           regulation and in the Board's review of NIOSH's  
8           dose reconstruction work. Groups whose exposure  
9           cannot be estimated with sufficient accuracy will  
10          be candidates for Special Exposure Cohorts.

11          **DR. ZIEMER:** Might I ask, Jim, where it says  
12          we may view the proper methods, was it your  
13          intent to say proper or proposed methods?

14          **DR. MELIUS:** Proposed.

15          **DR. ZIEMER:** It's -- the word was  
16          "proposed," right. So that is not a change, it's  
17          simply an editorial -- I think that proposes what  
18          you had originally said.

19          **DR. MELIUS:** Yes.

20          **DR. ZIEMER:** The proper methods are always  
21          appropriate, but proposed methods may not be.

22          **DR. MELIUS:** And can I just -- one other  
23          clarification, that last red sentence, "with  
24          sufficient accuracy may be candidates," not "will  
25          be candidates."

1           **DR. ZIEMER:** Well, "may be" will capture it,  
2 I think, right? We don't know if they should or  
3 not, but they may be. So consider that an  
4 editorial change.

5           This now is the motion before us. Wanda,  
6 comment.

7           **MS. MUNN:** As the maker of the original  
8 motion, I am pleased to accept this revision as  
9 appropriate.

10          **DR. ZIEMER:** Thank you.

11          We are handling it as an amendment, rather  
12 than a friendly amendment since it's rather  
13 extensive.

14          Other comments? Larry.

15          **MR. ELLIOTT:** As Ted rightfully whispers  
16 into my ear, there's only one Special Exposure  
17 Cohort, so that should be singular, not plural.

18          **DR. ZIEMER:** May be candidates for the  
19 Special Exposure Cohort. Consider that an  
20 editorial change, as opposed to an amendment.

21          Other comments? Henry.

22          **DR. ANDERSON:** Do you want to just address  
23 paragraph two? I have a suggested change for the  
24 third sentence in paragraph one, I think.

25          **DR. ZIEMER:** Right now the motion before us

1 is this item in red, plus the strikeout. We'll  
2 deal with that.

3 Any other comments on this change or  
4 modification of paragraph two?

5 (No response)

6 **DR. ZIEMER:** If not, let's vote on the  
7 amendment to modify paragraph two as shown.

8 All in favor, say aye.

9 (Affirmative responses)

10 **DR. ZIEMER:** Any opposed?

11 (No response)

12 **DR. ZIEMER:** The motion carries.

13 Now we're back to the original motion, as  
14 amended, which is the items one and two and  
15 three.

16 Henry, you have something on paragraph one.

17 **DR. ANDERSON:** (Inaudible)

18 **DR. ZIEMER:** This would be -- Henry, would  
19 you read for us --

20 **DR. ANDERSON:** I'll read it. What I have -

21 **MS. MURRAY:** At a microphone.

22 **UNIDENTIFIED:** Use the mike.

23 **DR. ZIEMER:** You can use the podium mike.

24 **DR. ANDERSON:** What I propose --

25 **DR. ZIEMER:** This will be inserted as the

1 second to last sentence in the first paragraph.

2 **DR. ANDERSON:** Yes. It would say the  
3 methods proposed are intended to result in dose  
4 estimates favorable to the claimant, and are  
5 appropriate to the occupational illness  
6 compensation program envisioned by the EEOICPA --  
7 which is the legislation.

8 **DR. ZIEMER:** Okay, that's a motion to amend.  
9 Is there a second to that?

10 **MR. ESPINOSA:** Second.

11 **DR. ZIEMER:** Seconded. So we'll do a  
12 redline strikeout of those words here.

13 (Comments off the record)

14 **DR. ZIEMER:** A comment from Ted Katz.

15 **MR. KATZ:** This is again largely editorial,  
16 but down below in the second paragraph we have  
17 right now -- and this is courtesy, in part, from  
18 Josh, Department of Energy -- but we say there  
19 will be many circumstances where NIOSH will not  
20 be able to estimate the dose with sufficient  
21 accuracy. Those circumstances -- you can break  
22 that into two sentences, for one; and I would  
23 just add, you may want to consider also, instead  
24 of prejudging whether there's many or some, you  
25 might just want to say there will be

1 circumstances, rather than quantifying them.

2 **DR. ZIEMER:** Thank you, Ted. Actually, as I  
3 look at this, that is a run-on sentence,  
4 editorially. I don't see any dangling  
5 participles, but it is a run-on sentence. And  
6 without objection, we should insert a period  
7 after "accuracy" and then start a new sentence,  
8 "Those circumstances."

9 The point on whether there will be many, I  
10 suppose is problematical. Is there any objection  
11 to leaving out the word "many?" Any objection?

12 (No response)

13 **DR. ZIEMER:** Without objection, that  
14 editorial, there will be circumstances where  
15 NIOSH will not be able to estimate the dose with  
16 sufficient accuracy.

17 Gen.

18 **DR. ROESSLER:** Should the word be "may"  
19 instead of "will?" We don't know for sure there  
20 will.

21 **DR. ZIEMER:** Well, and certainly "may" is  
22 inclusive of both the zero and every other --  
23 without objection, that's an editorial change.

24 **DR. MELIUS:** I object.

25 **DR. ZIEMER:** There will be?

1           **DR. MELIUS:** I think there will be. It's  
2 hard for me to imagine where there will not be,  
3 given all our discussions here.

4           **DR. ZIEMER:** So you'd rather leave it in as  
5 -

6           **DR. MELIUS:** The legislation provides for  
7 that. There already is a Special Exposure Cohort  
8 where that's, I think -

9           **DR. ZIEMER:** Thank you.

10          **DR. MELIUS:** -- what Congress presumed.

11          **DR. ZIEMER:** Okay, so there is objection to  
12 that. So the only way we'll change that is by  
13 motion. Are you making a motion?

14          **DR. ROESSLER:** (Shakes head)

15          **DR. ZIEMER:** No. Okay. Where there's a  
16 will, there's a way. There will be  
17 circumstances. Okay.

18                 Now is there any strikeout -- this was --

19          **DR. ANDERSON:** Yes, the last sentence.

20          **DR. ZIEMER:** Last sentence gets stricken.  
21 So that the proposed amendment is to insert what  
22 I said was the second to last sentence, now will  
23 become the new last sentence, since we will  
24 strike out the previous last sentence. And the  
25 new paragraph one reads as follows.

1           **MR. ELLIOTT:** I'm getting better at this,  
2 aren't I?

3           (Reading) Number one, interim proposed rule  
4 42 CFR Part 82 makes appropriate use of current  
5 science in reconstruction of radiation dose  
6 scenarios to the extent practicable. The Board  
7 recognizes that if the efficient and expeditious  
8 considerations of claims is to be made, absolute  
9 precision is not possible. The methods proposed  
10 are intended to result in dose estimates  
11 favorable to the claimants and are appropriate to  
12 the occupational illness compensation program  
13 envisioned by EEOICPA.

14           **DR. ZIEMER:** That motion is before us.  
15 Any comments? Wanda.

16           **MS. MUNN:** My only comment is with respect  
17 to the original use of the word "conservative."  
18 I think one of the things that is sometimes  
19 confusing to readers other than technical readers  
20 is what does conservative mean. And in these  
21 cases, I believe both the intent and the  
22 application of these methods was to be  
23 conservative, to give the claimant the benefit of  
24 the doubt.

25           So I'm wondering if it's possible to insert

1 that so that the sentence would read the methods  
2 proposed are intended to result in dose estimates  
3 favorable to the claimants, comma, are  
4 conservative, comma, and are appropriate to the  
5 -- does that confuse the issue?

6 **DR. ANDERSON:** Yeah, your point is exactly  
7 why I did it. Conservative could be cautious, or  
8 it could be as you said. That's why I put it in,  
9 favorable to the claimant. It's maybe not  
10 concise language, but the idea was conservative,  
11 as you said, can be interpreted to be -- can  
12 either be high or low.

13 **DR. ZIEMER:** Normally probably would be  
14 interpreted as being the lower one. But maybe a  
15 way to get around this and meet Wanda's comment  
16 would be to say that the -- get the sentence here  
17 -- dose estimates -- result in conservative dose  
18 estimates, parenthesis, favorable to the  
19 claimants, parenthesis.

20 **DR. ANDERSON:** Sure.

21 **MS. MUNN:** Yes.

22 **DR. ZIEMER:** That's one way. I'm not  
23 proposing that; don't insert it. It's just one  
24 way to do it. Roy.

25 **DR. DEHART:** (Inaudible)

1           **DR. ZIEMER:** Use the mike there, Roy.

2           **DR. DEHART:** To get rid of the parenthetical  
3 phrase, why not say results in dose estimates  
4 that are consistently conservative and favorable  
5 to the claimant?

6           **DR. ZIEMER:** Henry, does that -- is that a  
7 friendly amendment?

8           **DR. ANDERSON:** I do have somewhat of a  
9 problem. Consistently conservative, again,  
10 suggests to me low. And it's favorable then to  
11 their health, but not necessarily to their --

12           **DR. ZIEMER:** So you're speaking -- you'd  
13 rather not have the word "conservative" in there.

14           **DR. ANDERSON:** I just think the  
15 "conservative" -- I understand what you're  
16 getting at, but I just think that's problematic.

17           **DR. ZIEMER:** Wanda.

18           **MS. MUNN:** And that's exactly why I used it  
19 the way I did in the original sentence, that it's  
20 intended to favor the claimant, and in that  
21 regard is consistently conservative. I wanted to  
22 tie the word "conservative" to the "favorable to  
23 the claimant."

24           **DR. ZIEMER:** Other comments? Gen.

25           **DR. ROESSLER:** I tend to go along with

1 Henry. I think introducing the word  
2 "conservative" at all, even trying to kind of  
3 explain it, is confusing. I think we've really  
4 captured it here by just saying estimates  
5 favorable to the claimants, as long as that's  
6 grammatically correct.

7 **DR. ZIEMER:** Other comments? Do you --

8 **DR. ANDERSON:** Just a question, and I don't  
9 remember, is "conservative" used anywhere in the  
10 proposed rule?

11 **MR. ELLIOTT:** I do not believe we've used  
12 the term "conservative" in the proposed rule.  
13 But you did see it used in the draft  
14 implementation guidelines, which I have a big  
15 issue with, and you won't see it in the next  
16 version that you have presented.

17 **DR. ZIEMER:** That may answer the question.

18 **DR. ANDERSON:** That answers the question.

19 **DR. ZIEMER:** Are you ready to vote?

20 Okay, all who favor amending the document in  
21 paragraph one as shown, by the addition of the  
22 redlined paragraph and the deletion of the -- or  
23 sentence, rather, and deletion of the indicated  
24 sentence, say aye.

25 (Affirmative responses)

1           **DR. ZIEMER:** Opposed?

2           (No response)

3           **DR. ZIEMER:** Okay.

4           Now we're back to the document as amended.  
5           We've looked at paragraph one, paragraph two.  
6           Let's see, and then we have a paragraph which has  
7           a number two, which is paragraph three. That's  
8           all right, leave it as it is for the moment.

9           The interim rule outlining methods and so  
10          on, anything on this paragraph? Gen.

11          **DR. ROESSLER:** That was my wording before  
12          Wanda tried to capture everything in the first  
13          part. And right at the moment, unless somebody  
14          thinks it adds something, I think it's redundant.  
15          And so I think it should be deleted.

16          **DR. ZIEMER:** The motion then would be to  
17          delete this third paragraph, which carries the  
18          number two. Is there a second?

19          **MS. MUNN:** Second.

20          **DR. ZIEMER:** Do we need to -- well, let's  
21          just line that out, just so we have it there  
22          before us, so we'll do a strikeout on that for  
23          the moment. This is a proposed motion by Gen  
24          Roessler to strike that paragraph, second by  
25          Wanda.

1 Discussion?

2 (No response)

3 **DR. ZIEMER:** Those who favor deleting this  
4 paragraph, say aye.

5 (Affirmative responses)

6 **DR. ZIEMER:** Opposed?

7 (No response)

8 **DR. ZIEMER:** Okay, it's deleted.

9 Third -- fourth paragraph, carrying number  
10 three.

11 **DR. MELIUS:** Can you go back? I can't  
12 remember what's the first sentence of the second  
13 paragraph. I think again number three is  
14 redundant, I think, with the first sentence of  
15 the second paragraph.

16 **DR. ZIEMER:** Therefore you are proposing --

17 **DR. MELIUS:** I move that we drop that number  
18 three.

19 **DR. ZIEMER:** Motion to drop that paragraph.

20 **DR. DEHART:** Second.

21 **DR. ZIEMER:** Seconded. We'll do a strikeout  
22 here, and ask for comments on that proposed  
23 amendment.

24 (No response)

25 **DR. ZIEMER:** Ready to vote?

1           Those who favor dropping this paragraph,  
2           which is also a sentence, say aye.

3           (Affirmative responses)

4           **DR. ZIEMER:** Opposed?

5           (No response)

6           **DR. ZIEMER:** And that drops off the map.

7           Now let's back the screen down so we can see  
8           what's left on that document. No, no, the other  
9           way, please. I just want to get those first two  
10          paragraphs before us -- there.

11          So what you have on the screen now, which is  
12          the two paragraphs, right now constitutes the  
13          Board's response to the three questions. Now I  
14          ask if we have answered the three questions to  
15          your satisfaction? That's a question to the  
16          Board, not to the staff, to the Board.

17          (No response)

18          **DR. ZIEMER:** Is there anything you wish to  
19          add or delete?

20          (No response)

21          **DR. ZIEMER:** I'm going to give you about  
22          five minutes to think about that, because we're  
23          going to have a comfort break here since we're  
24          not having lunch. Okay, let's take a stretch  
25          before we do a final vote. Five official

1 minutes; let's see if we get everybody back here  
2 by then.

3 (Whereupon, a recess was taken from  
4 12:04 to 12:15 p.m.)

5 - - -

6 **DR. ZIEMER:** I believe we're ready to vote  
7 now on these two paragraphs as amended. It was  
8 originally four paragraphs, now down to two, as  
9 amended. Let me ask once again, are there any  
10 other comments or -- yes, questions. Gen  
11 Roessler.

12 **DR. ROESSLER:** Are we wordsmithing before or  
13 after the vote, because in the first sentence we  
14 discussed a possible change of the words.

15 **DR. ZIEMER:** Well, I think if there are word  
16 changes, let's get them right now before us. If  
17 they're editorial, minor, let's just go ahead and  
18 do it.

19 **DR. ROESSLER:** Well, I think it's more than  
20 editorial. I think we discussed in the first  
21 sentence the words "to the extent practicable,"  
22 and I don't have a suggestion for different  
23 words, but I don't like the word "practicable."  
24 And I thought we were going to come back to this  
25 part and discuss it again.

1           **DR. ZIEMER:** I think it's appropriate now.  
2 If we want to change that, let's do it now. I  
3 don't know what the change would be if it's not  
4 "practicable." Is it "reasonable," "reasonably  
5 achievable"?

6           **DR. MELIUS:** I would just suggest dropping  
7 "to the extent practicable." I think appropriate  
8 captures that idea, because part of whether  
9 something's appropriate or not is whether it's  
10 practical and efficient and so forth. So I just  
11 don't think we need --

12           **DR. ZIEMER:** So that would be one way of  
13 handling this, would simply be to drop the phrase  
14 "to the extent practicable." That's not a formal  
15 motion yet, or was it a formal motion? Well,  
16 let's hear some comments.

17           Wanda, because this is your sentence.

18           **MS. MUNN:** I guess I still -- I understand  
19 the issues that folks have with "practicable."  
20 But by the same token I think it's a necessary  
21 prerequisite for the second sentence, because  
22 what we're trying to make very clear is that  
23 good, fast, and cheap, you can have any two out  
24 of three. That's really what we're saying here.  
25 And if you don't say "practicable" before you

1 talk about efficient and expeditious, then you're  
2 not getting the sense of what I thought we were  
3 trying to capture.

4 **DR. ZIEMER:** Okay, thank you.

5 Other comments? So Wanda is urging us to  
6 keep it, and Jim, I don't know if you were urging  
7 -- you were suggesting as an alternative to drop  
8 it. Do you object to not dropping it?

9 **DR. MELIUS:** No, it doesn't bother me.

10 **DR. ZIEMER:** Gen? Gen's okay with it.  
11 Okay.

12 **MS. GADOLA:** Since I first --

13 **DR. ZIEMER:** The motion still before us is  
14 the original as -- okay, wait a minute. Sally,  
15 yes.

16 **MS. GADOLA:** Since I first brought that up,  
17 I felt uncomfortable because I was afraid that  
18 the public would misinterpret that. And even --  
19 I still have a little bit of doubt there, I do  
20 think that the rest of the information that we've  
21 now added clarifies that word, so I feel more at  
22 ease with it than I did before.

23 **DR. ZIEMER:** Okay, thank you.

24 Okay, I take it that we're ready to vote,  
25 then, this point, it appears. So we will be

1 voting now on adopting these two paragraphs, as  
2 you see there -- that is, with the new words in  
3 red and the deleted words stricken.

4 All in favor, say aye.

5 (Affirmative responses)

6 **DR. ZIEMER:** And those opposed, say no.

7 (No response)

8 **DR. ZIEMER:** And the motion carries.

9 We now have adopted all of the items I think  
10 that we had before us. Is there anything that's  
11 been omitted?

12 (No response)

13 **DR. ZIEMER:** Then I would ask, if the Board  
14 is agreeable, I will take these -- again, they  
15 will be formatted into letter form. I may  
16 rearrange the order, and may have some sentences  
17 that say in response to the three questions the  
18 Board has the following comments, something of  
19 that sort, without changing the items that have  
20 been officially approved.

21 Is it agreeable that the Chair would have  
22 the prerogative of formatting this into letter  
23 form, somewhat like we did before? But it would  
24 probably all be in one letter, or else a letter  
25 with an appendix or an attachment, and a meeting

1 agenda, again as we did before.

2 (No response)

3 **DR. ZIEMER:** Without objection, we'll  
4 proceed on that basis. We'll make copies  
5 available to everyone. Oh, wait --

6 **DR. ANDERSON:** I was just thinking, I think  
7 leaving this as an attachment that goes part of  
8 the record is important. I wonder if in the  
9 covering letter we might want to mention  
10 something about that this kind of a work in --  
11 the dose reconstruction as opposed to the other  
12 is more of a work in progress, and that we look  
13 forward to working closely with NIOSH as this is  
14 implemented and our revisions are considered, or  
15 things like that.

16 **DR. ZIEMER:** I'd be glad --

17 **DR. ANDERSON:** So it really is -- the proof  
18 is going to be in the pudding, once it's --

19 **DR. ZIEMER:** Okay, I'd be glad to do that.  
20 And Henry, before you leave, just write that down  
21 on a piece of paper, save me from writing it  
22 down. No, I certainly -- I don't mean to be  
23 facetious. I just want to be sure to capture  
24 your words on that, and any others that have some  
25 thoughts that you want to include.

1           Also, I'm wondering if it's possible -- and  
2 I'll just ask Cori, and I think at this point you  
3 can go ahead and tell the machine to get rid of  
4 that strikeout stuff. Is it possible to get a  
5 printout of these for anyone that wants to take  
6 with, or not? Maybe not. Maybe the thing to do,  
7 you can e-mail these to us, can you not?

8           **MR. ELLIOTT:** We'll e-mail the text that  
9 you've approved.

10          **DR. ZIEMER:** Right, not --

11          **MR. ELLIOTT:** So all the Board has --

12          **DR. ZIEMER:** I just want to make sure  
13 everybody has that. You'll be able to get that  
14 in the next day or two, probably.

15          **MR. ELLIOTT:** Yeah.

16          **DR. ZIEMER:** Okay, that'll be good. Is  
17 everybody okay on that?

18          **DR. MELIUS:** Yeah, I would just -- could you  
19 also share this, what we've written and the  
20 process and so forth, with Tony, who couldn't be  
21 here?

22          **MR. ELLIOTT:** Yes.

23          **DR. MELIUS:** Just so he's --

24          **MR. ELLIOTT:** Absolutely. Everything that  
25 we've assembled as a product from the last two

1 days of meeting will be shared with Tony.

2 **DR. MELIUS:** Sort of get it to him, and I  
3 don't -- if there was additional comments or  
4 questions he has, I think we should just try to -  
5 - you know.

6 **DR. ZIEMER:** Now everybody's okay on that  
7 process, then?

8 (No responses)

9 **DR. ZIEMER:** One final thing I'd like to  
10 request if the staff is able to do this, and  
11 maybe to have general counsel or somebody that's  
12 available to you, I would like to see if we can  
13 find out precisely what the FACA rules are for  
14 advisory committees, as opposed to Federal  
15 agencies, on this issue of predecisional drafts,  
16 the extent to which we can work individually and  
17 exchange information.

18 Not that we're going to, because our work is  
19 done; but if we have situations like we had last  
20 time, I'd like to find out exactly -- because  
21 I've heard several versions from different  
22 members of the public on exactly what the  
23 requirements are, and the comments I've gotten  
24 are completely 180 degrees apart. I don't know  
25 what the legal requirement is on that.

1           Obviously we're going to try to make  
2 everything as public as possible. But there's a  
3 sense in which you come to a screeching halt if  
4 you can't work sort of off-line at times.

5           **MR. ELLIOTT:** We certainly will get a  
6 counsel's guidance and committee management's  
7 guidance on that, and we'll send it to you.

8           **DR. ZIEMER:** And we want to do whatever's  
9 both fair to the Board and to the public.

10          **MR. ELLIOTT:** Understood.

11          **DR. ZIEMER:** Just to find out what is the  
12 requirement.

13               Are there any other items that need to come  
14 before us?

15          **DR. DEHART:** I don't know whether you care  
16 to mention it or not, but this was with unanimous  
17 consent.

18          **DR. ZIEMER:** The record will show that these  
19 things were adopted with unanimous consent,  
20 recognizing that one of our members is absent.  
21 Tony is not here today.

22          **MR. ELLIOTT:** And just for everyone's  
23 reminder, the public comment period remains open  
24 for dose reconstruction rule 82 CFR -- 42 CFR 82  
25 until March 1st. Once your letter has been sent

1 forward to the Secretary, it also will be added  
2 that day to the docket on this rule. Public  
3 comment can be received until March 1st.

4 **DR. ZIEMER:** Thank you.

5 Any other items that need to come before us?  
6 Any other comments for the good of the order?

7 (No response)

8 **DR. ZIEMER:** Any other public comments?

9 (No response)

10 **DR. ZIEMER:** If not, we stand adjourned.

11 **MR. ESPINOSA:** Paul, just --

12 **DR. ZIEMER:** Hold on, hold on just a moment,  
13 because --

14 **MR. ESPINOSA:** Because of the public  
15 interest in this and people coming from out of  
16 town and out of state, is there any way that the  
17 Board can reserve more rooms?

18 **MS. HOMER:** Well, the difficulty with  
19 putting more rooms on a block is that we just  
20 don't know for sure who's going to be on there.

21 **MR. ESPINOSA:** Is there any way or any  
22 manner that --

23 **DR. ZIEMER:** Use your mike, please.

24 **MR. ESPINOSA:** Is there any way or any  
25 manner that people that are interested in this

1 can get in contact with NIOSH, CDC?

2 **MS. HOMER:** They can contact me. The  
3 difficulty is in setting up the contract. I'd  
4 have to let them know at the time I'm arranging  
5 the contract how many people will be attending.  
6 All I can do is guarantee an estimated amount  
7 based on the Board's attendance and staff  
8 attendance. So if I know ahead of time, I can  
9 tell them.

10 **MR. ELLIOTT:** We certainly would appreciate  
11 hearing from folks who want to attend the  
12 meeting, but we cannot provide them space. We  
13 can help them -- we can identify other hotels  
14 that they might be able to get space in. But it  
15 helps us to have advance notice of who wishes to  
16 attend the meeting, and we'll try to assist them  
17 in what ways we can.

18 **DR. ZIEMER:** Thanks.

19 **DR. ANDERSON:** Just one last --

20 **DR. ZIEMER:** Henry.

21 **DR. ANDERSON:** What is our process -- I  
22 think we had some ideas about the next meeting  
23 and what we'd like to see. And how are we going  
24 to -- what's our process to get things on the  
25 agenda for the next meeting and subsequent

1 meeting?

2 **DR. ZIEMER:** Right. We agreed that if you  
3 had suggested individuals or groups that you  
4 wanted to hear from, we would let Larry know what  
5 those are, either by individual or by agency or  
6 topic. Larry and I would work up an agenda which  
7 we'll share with the group in a draft form to see  
8 if -- and this is for the April meeting, now,  
9 we're talking about and --

10 **UNIDENTIFIED:** May.

11 **DR. ZIEMER:** Yeah, the April meeting, which  
12 will be held in May. And I think that's what  
13 we've agreed on. Is that --

14 **MR. ELLIOTT:** Yeah.

15 **DR. ZIEMER:** Okay. Thank you, everyone.  
16 We'll see you next time. Be sure to give Larry  
17 your time sheets, as it were, and calendars to  
18 Cori.

19 (Whereupon, the meeting was  
20 adjourned at 12:29 p.m.)

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C E R T I F I C A T E

STATE OF GEORGIA )  
 )  
 COUNTY OF DEKALB )

I, KIM S. NEWSOM, being a Certified Court Reporter in and for the State of Georgia, do hereby certify that the foregoing transcript, consisting of 120 pages, was reduced to typewriting by me personally or under my direct supervision, and is a true, complete, and correct transcript of the aforesaid proceedings reported by me.

I further certify that I am not related to, employed by, counsel to, or attorney for any parties, attorneys, or counsel involved herein; nor am I financially interested in this matter.

WITNESS MY HAND AND OFFICIAL SEAL this 7<sup>th</sup> day of March, 2002.

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 KIM S. NEWSOM, CCR-CVR  
 CCR No. B-1642

(SEAL)